

**CITY COUNCIL AGENDA REPORTS
DECEMBER 14, 2004**

Agenda Item #11a

City Council Meeting
December 14, 2004

City of Wichita

Agenda Report No. 04-1194

TO: Mayor and Members of the City Council

SUBJECT: COBRA Administrator for 2005/2006

INITIATED BY: Finance Department

AGENDA: Consent

Recommendation: Approve contract.

Background: COBRA is a federal law that requires most employers with group health plans to offer employees the opportunity to continue their group health plan coverage if they retire, resign or otherwise leave employment with the City of Wichita. COBRA regulations require insurance coverage for covered employees as well as their spouses and dependents up to 18-36 months, dependent on the “qualifying event”. The initial notice and qualifying notice are required by the U.S. Department of Labor. Failure to provide the notices in a timely manner can subject the City to fines of \$110 per day per participant. Moreover, the mishandling of the federally required notices is a potentially significant source of litigation and liability for group health insurance plans. The notices typically consist of a cover letter to the qualified beneficiary explaining their COBRA rights and obligations as well as an election form, premium schedule with payment and notice deadlines. In the past COBRA administration has been provided by Preferred Health Systems. On October 12, 2004, the City Council accepted the recommendation of the Health Insurance Advisory Committee to award the 2005/2006 health insurance program to Coventry Health Care of Kansas, Inc. It has been determined that Coventry Health Care does not provide COBRA administration services. Accordingly, City staff requested the City’s health and benefit consultant, Hilb, Rogal & Hobbs to solicit competitive proposals from qualified COBRA administrators for 2005/2006. A total of four written proposals were received: Altus Benefit Administrators; Benefit Concepts; Benefit Strategies and Conexis.

Analysis: Representatives from the City's health and benefit consultant, Hilb, Rogal & Hobbs, the Personnel Office and the Department of Finance reviewed the proposals for COBRA administrator. The lowest cost proposal of Altus Benefit Administrators is recommended for the following reasons: (1) has the lowest estimated administration fees of \$5,520 per year with a two year rate guarantee; (2) waives the COBRA Basic Set Up fees (City not charged); (3) the monthly participant fee of \$5 per participant per month is lowest fee; (4) has the lowest qualified beneficiary set up fee of \$6 per participant; and, (5) has the lowest premium remittance fee and direct bill administration fee.

Financial Considerations: The contract would be for an annual administrative fee of \$5,520 plus ongoing COBRA per participant charges for a total estimated contract of \$5,880. Altus Benefit Administrators offered a 24-month rate guarantee. The current number of COBRA participants is 11 and the estimated annual number of COBRA qualifying events is 360/year. Funds are budgeted in the Group Health Insurance Fund to pay for a COBRA Administrator.

Recommendation/Action: It is recommended the City Council approve the proposal of Altus Benefit Administrators to be the City's COBRA administrator for 2005/2006, approve the contract, and authorize the appropriate signatures.

Agenda Item #11b

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1195

TO: Mayor and City Council

SUBJECT: Anne Frank Traveling Exhibit

INITIATED BY: Library

AGENDA: Consent

Recommendation: Approve the loan agreement.

Background: Continuing a practice of incorporating one major exhibit into the program schedule each year, the Wichita Public Library has selected "Anne Frank: A History for Today" from The Anne Frank Center USA, Inc. in New York City as its featured exhibit for 2005. The exhibition is tentatively scheduled to be available to the community during April 2005.

Analysis: The Library has successfully hosted traveling exhibitions in the past, most recently with “Listening to the Prairie: Farming in Nature’s Image” (2002) and “At the Controls: The Smithsonian National Air and Space Museum Looks at Cockpits” (2004). As the department has gained experience with these events, exhibitions have been expanded to include tours and related programs. Preliminary plans for the Anne Frank event include group tours of the exhibition, lectures, films, book discussions and author presentations. These plans have been developed with assistance from the Mid-Kansas Jewish Federation, Arts Partners and USD 259. Once the exhibition loan agreement has been completed and the dates confirmed, program plans will be finalized.

Financial Considerations: The rental fee for the exhibition is \$3,000. The Wichita Public Library Foundation will provide funding for the exhibition.

Legal Considerations: The loan agreement has been reviewed and approved by Law Department staff.

Recommendation/Action: It is recommended that the City Council approve the exhibition loan agreement and budget and authorize the necessary signatures.

Agenda Item No. 11c

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1196

TO: Mayor and City Council Members

SUBJECT: Lexis/Nexis Contract Renewal – Legal Research Data Service

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Approve the Lexis/Nexis Subscription Plan Amendment for State/Local Government and Amendment to Agreement, and authorize the Mayor to sign.

Background: In 2001, the Law Department migrated from the West CD research system to flat-rate online Westlaw research packages, to resolve logistical problems with adjusting for the growing number of CDs, and to obtain more up to date information. In early 2003, the Department contacted a Westlaw representative to explore potential

changes to keep the research access within budget, but learned that Westlaw was proposing a 20% price increase, without alternatives. This proposal could not be accommodated within the Department's available budget, and so the Law Department researched alternative systems of other vendors, to locate a package of comparable functionality in a workable cost range. This resulted in a shift to the Lexis/Nexis research system in July 2003, at a flat rate of \$1689/month, which was less than the Westlaw rate the Law Department had paid, and avoided the 20% increase. The Department has managed the transition well, as the content and function of the Lexis/Nexis system were substantially similar to Westlaw in many respects.

Analysis: The existing Lexis/Nexis contracts expire this month. Lexis/Nexis is willing to extend for three years (subject to annual appropriations, for Budget Law and Cash Basis Law purposes), with no increase in price in 2005, and with a limited increase to a flat rate of \$1723/month for 2006 and 2007. As an annualized increase, 2006 and 2007 cost would each be \$408 higher than 2005 cost. This increase is the first sought by Lexis/Nexis since the Law Department shifted to that service in July 2003. The proposed 2006 and 2007 monthly rates would still be below the \$1984.75/month Westlaw charged prior to the July 2003 transition to Lexis/Nexis. Law Department also checked rates with Westlaw, and learned that Westlaw would offer \$1679.70/month for 2005, subject to possible discount to \$1602.82/month (but which discount would be subject to future fluctuation) if bundled with West print products in the Law Department library. This proposal would have involved switching nearly half of the Law Department's attorneys to a much more limited access plan, and also was tied to a 4% increase for 2006 and an additional 4% increase in 2007, such that even if the discount for bundled print products remained constant, monthly cost in 2007 would be higher than under the Lexis/Nexis proposal, for lesser access packages. (Discounted Westlaw rates for the access packages most equivalent to current Lexis access would have been \$1719.02/month for 2005, \$1787.75/month for 2006 and \$1859.29/month for 2007). The 4% annual increases projected by Westlaw also do not fit well with normal Budget standards, which favor limiting percentage increases to 2%, two years out from the current year. Because the pricing alternatives offered by Westlaw and Lexis/Nexis were reasonably close, and due to some nervousness over the prior 20% increase Westlaw requested in 2003, Law Department recommends renewal of the Lexis/Nexis agreement under the proposed arrangement, rather than a transition back to Westlaw at this time. (Law Department also looked at Loislaw, which is a more recent entry to the computerized legal research field, but found that the Loislaw service, although less expensive, did not provide access to some significant online sources, such as Kansas Administrative Agency decisions like Board of Tax Appeals cases, or the American Jurisprudence legal encyclopedia).

Financial Considerations: Funds for online research access are budgeted in the Law Department Budget. The 2005 Lexis proposal; would be within the available budget, and the limited increase proposed for 2006 (with no additional increase in 2007) should be manageable within normal budget policies. If funds prove unavailable for the limited increase in 2006, the appropriations clause (contained in the Amendment to Agreement) would allow the City to terminate the contract at that time.

Legal Considerations: The proposed online arrangements will provide current information on legal developments, adequate for the Law Department's research needs and at a predictable cost.

Recommendations/Actions: Approve the Lexis/Nexis Subscription Plan Amendment for State/Local Government and the Amendment to Agreement, and authorize the Mayor to sign.

Agenda Item No. 11d

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1197

TO: Mayor and Council Members

SUBJECT: City-County Agreement: Hydraulic Improvement, between 63rd St. South and 57th St. South (District III)

INITIATED BY: Public Works Department

AGENDA: Consent

Recommendations: Approve the agreement.

Background: Sedgwick County's Capital Improvement Program has included a project to improve Hydraulic, between 63rd St. South and 57th St. South. The adjoining area has been annexed into the City of Wichita. As a result, it is desirable that the City administer the project. The County has acquired needed right-of-way, paid design expenses and will contribute \$500,000 to pay part of the construction cost.

Analysis: A City-County agreement has been prepared to establish the basis for the payment. Total project authorization will be presented to the City Council for consideration at a later date, following the District Advisory Board hearing.

Financial Considerations: Payment to the City will be on a lump sum basis of \$500,000 and will be paid upon award of the construction contract.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

AGREEMENT

THIS AGREEMENT is made and entered into this day of , 2004, by and between the Board of County Commissioners of Sedgwick County, Kansas, hereinafter referred to as "County" and the City of Wichita, Kansas, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, County and City are authorized to enter into an agreement pursuant to K.S.A. 12-2908, as amended; and

WHEREAS, County and City desire to make certain improvements to Hydraulic between 57th St. South and 63rd St. South; and

WHEREAS, County has included funding for the improvements in its Capital Improvement Program in 2005; and

WHEREAS, County desires that City construct the said improvements;

NOW, THEREFORE, for and in consideration of the parties' mutual promises and covenants, it is agreed as follows:

1. The purpose of this Agreement is to provide for the construction and financing of street improvement work by the City on a portion of Hydraulic that lies partially within the corporate limits of the City and partially within the unincorporated area of the County.
2. The Improvements shall be financed in the following manner:
 - A. County agrees to pay for the cost of right of way to be acquired from properties in the unincorporated area of the county and for design up to the amount approved in County's agreement with Baughman Company, P.A., dated November 24, 1999.
 - B. City agrees to pay for all costs of design over and above the County's cost as outlined above, all right of way to be acquired from properties within the limits of the City, utility relocation, construction, construction engineering and any other project costs that might be incurred.
 - C. The County agrees to pay a lump sum amount to City of \$500,000 which may be used for any project costs incurred by City. City may bill County for a lump sum

payment upon award of a contract for construction of the project, but not before January 1, 2005.

3. The City shall have final authority in regard to the bidding, contracting and administration of the project; and City shall be responsible for all legal and engineering matters concerning the Improvements.

4. City shall accept the Improvements by permitting the same to be open to public travel and, upon such opening; City shall thereafter assume all liability for maintenance and repair. The agreement of City for maintenance and repair of the improvements shall survive the termination of this Agreement.

5. To the extent permitted by law, City does hereby release, discharge, indemnify and hold harmless the County, its agents, servants and employees from any and all liability and damages of whatsoever nature and arising from whatsoever cause, relating to and arising from errors and omissions from the design of the project or from errors and omission resulting from construction means and methods used in the construction of the project. This release and indemnity shall survive termination of this agreement.

6. The duration of this Agreement is until the completion of the Improvements.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

BOARD OF COUNTY COMMISSIONERS
KANSAS
OF SEDGWICK COUNTY, KANSAS

THE CITY OF WICHITA,

THOMAS G. WINTERS,
Chairman, Second District

CARLOS MAYANS
Mayor

ATTEST:

ATTEST:

DON BRACE,
County Clerk

KAREN SUBLETT
City Clerk

APPROVED AS TO FORM:

ROBERT W. PARNACOTT,
Assistant County Counselor

GARY E. REBENSTORF
City Attorney

Agenda Item No. 11e

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1198

TO: Mayor and City Council Members

SUBJECT: Consent Agreement for Encroachment into Existing Easement
For Main 16, Four Mile Creek Sewer (East of Greenwich Road,
South of 21st Street) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The construction and maintenance of Main 16, Four Mile Creek Sewer will require an easement from a property owner. Westar Energy has an existing easement at this same location, east of Greenwich Road along the north side of the abandoned railroad, between 13th Street and 21st Street. Westar has agreed to consent to co-location of Four Mile Creek Sewer within the existing easement.

Analysis: An Agreement has been prepared which formalizes this arrangement.

Financial Considerations: No cost to City.

Legal Considerations: The Law Department has approved the Agreement as to form.

Recommendation/Action: Approve the Agreement and authorize the Mayor to sign the same.

Agenda Item No. 11f

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1199

TO: Mayor and City Council Members

SUBJECT: Consent Agreement for Encroachment into Existing Easement
In Remington, Third Addition (East of Webb Road, South
of 21st Street) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: A paving project in Remington, Third Addition encroaches into an existing easement granted to Westar Energy. This existing easement is located east of Webb Road and south of 21st Street. Westar has agreed to consent to co-location within the existing easement.

Analysis: An Agreement has been prepared which formalizes this arrangement.

Financial Considerations: No cost to City.

Legal Considerations: The Law Department has approved the Agreement as to form.

Recommendation/Action: Approve the Agreement and authorize the Mayor to sign the same.

Agenda Item No. 11g

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1200

TO: Mayor and City Council Members

SUBJECT: Agreement for Right of Entry, Road Improvements
Hillside, Kellogg to Central (Districts I and II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The Hillside Improvement Project, Kellogg to Central, was approved for design and right-of-way acquisition by the City Council on December 11, 2001. In order for the contractor to construct the sidewalk and driveway at the right-of-way line, temporary access must be granted from the property owner. The owner of a property located on South Hillside has consented to needed temporary access and an agreement formalizing the access has been prepared.

Financial Considerations: There will be no cost to City.

Legal Considerations: The Law Department has approved the Agreement as to form.

Recommendation/Action: Approve the Agreement and authorize necessary signatures.

Project/Project No. Hillside Avenue, Central to Kellogg
87N-0226-01

THIS AGREEMENT made and entered into this ____ day of _____,
20____, by and between _____, of Wichita, Sedgwick County,
Kansas, hereinafter referred to as Landowner(s), and the City Engineer of Wichita.

THE PARTIES HERETO mutually agree as follows:

In consideration of the benefits derived from this street improvement project, the Landowner(s) willingly grants to the City Engineer and his contractors and subcontractors the right and liberty to enter and occupy the following land in Wichita, Sedgwick County, Kansas to wit:

The east 5 ft. of the south 20 feet of Lot 1, Reisman Addition to Wichita, Sedgwick County, Kansas. More commonly known as the east 5 ft. of the south 20 feet of 201 S. Hillside Avenue.

TOGETHER WITH:

Beginning at the northeast corner of Lot 1, Reisman Addition to Wichita, Sedgwick County, Kansas (more commonly known as 201 S. Hillside Avenue); thence west along the north line a distance of 10 feet; thence south 5 feet; thence east 5 feet; thence south 5 feet; thence east 5 feet to the east line of said Lot 1; thence north along said east line to beginning.

TOGETHER WITH:

The east 5 ft. of the south 60 feet of Lot 1, Zakas 5th Addition to Wichita, Sedgwick County, Kansas. More commonly known as the east 5 ft. of the south 60 feet of 207 S. Hillside Avenue

for the purpose of constructing sidewalk and driveways.

Said right of entrance, and occupation, to extend through the period of time necessary to complete the above described construction work, but will expire no later than December 31, 2006.

It is further agreed by and between the Landowner(s) and City Engineer that this right of entry is for the purpose of construction only and that the present street right-of-way line shall not be altered or changed. The City Engineer, or his designee, will be responsible for the safety of its personnel and hereby indemnifies and holds harmless the Landowner and Landowner's successor and assigns from any claim, damage, loss, liability, causes or action or expense (including without limitation, court costs and reasonable attorney's fees) arising from or as a result of the City Engineer or his designees being on the property. It is further agreed that upon completion of work, the City Engineer and his contractors and subcontractors will leave the property in the same or better condition as existed prior to their entry.

IN WITNESS WHEREOF said parties hereto have affixed their signatures on the date and year above written.

CITY ENGINEER
WICHITA, KANSAS

Authorized Signature(s)

Jim Armour, P.E.

JDL/are (3/30/04) Hillside, Central/Kellogg/201/207

Agenda Item No. 11h

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1201

TO: Mayor and City Council

SUBJECT: Working Agreement for Cheney Watershed Demonstration Projects

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the Working Agreement with the Reno County Conservation District and the Citizen's Management Committee

Background: Cheney Reservoir is a major water supply source for Wichita, currently providing approximately 60 percent of the City's water. On August 24, 1993, City Council approved the concept of the City assuming part of the cost-share necessary to allow landowners to implement Best Management Practices (BMP) in the watershed above the reservoir

Analysis: Cheney Reservoir has two significant pollution problems: sedimentation and phosphates. Sediment washes into the reservoir from soil erosion, displacing stored water, and is a major factor in determining the "life" of the reservoir. High phosphate levels can lead to an increase in microscopic plant activity in a lake, which increases taste and odor problems.

A management plan has been approved for the watershed that identifies Best Management Practices to help reduce the pollution entering the reservoir. The Reno County Conservation District and the Citizens' Management Committee are responsible for implementing the recommendations in the Management Plan. The proposed Working Agreement promotes the use of Best Management Practices and establishes procedures for payments to producers who implement the practices. The plan addresses funding the construction of demonstration projects, including terraces, grassed waterways, range and pasture seeding, riparian filter strips and concrete drainage structures.

Incentives are included to use alternate management techniques (nutrient management, conservation tillage, crop rotation, brush control, and planned grazing systems) and to convert land coming out of the Conservation Reserve Program to rangeland by installing water systems, fencing and filter strips. This Agreement additionally includes an

incentive program for small community wastewater treatment plants to make voluntarily improvements to improve the quality of their discharge.

Financial Considerations: All of the practices are voluntary, and allocated funds may not be fully utilized in the fiscal year. Most of the practices are also eligible for funding from an EPA 319 Grant that will provide up to 60 percent of the cost of a BMP project. The City will match the 40 percent that is not covered by federal funds.

Other entities offering cost-share programs include the Kansas Alliance for Wetlands and Streams, the Kansas Water Office and the Kansas Rural Center. These entities have programs that offer 60-70 percent funding for BMP projects; however, installation of fences around sites that were previously enrolled in the Conservation Reserve Program are not currently eligible for funding from any other programs. These fencing projects will be eligible for 50 percent funding from the City of Wichita, with the remaining 50 percent being paid by the landowner. The incentive payment for small municipalities is limited to a one-time payment of \$2,500 per community to match other funding sources and two communities.

CIP W-500, Cheney Watershed Protection Plan, has allocated \$200,000 in 2005 for this effort.

The maximum amount the City could spend in FY 2005 for the City's share of the costs for all of the practices covered in this Working Agreement would not exceed \$75,600.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendations/Actions: Approve the Working Agreement and authorize the necessary signatures.

Agenda Item No. 11i

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1202

TO: Mayor and City Council

SUBJECT: Central Rail Corridor –Union Pacific Railroad Agreement
(District VI)

INITIATED BY: Public Works Department

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: In December 1995, the City of Wichita (and Sedgwick County) became aware of the Union Pacific Railroad's (UPRR) intention to increase train movements through Wichita. The UPRR's proposed merger with the Southern Pacific Railroad (SPRR) gave the UPRR the incentive to utilize its rail lines through Wichita as a north-south mainline between Texas and Wyoming (coal), as well as for grain shipments from Nebraska and other states to ports on the Gulf of Mexico. To implement the merger and the new routings, the UPRR had to receive approval of the Surface Transportation Board (STB).

Protests from the Mayor and City Council against the proposed impact of increased train movements through the City were recognized by the STB as being legitimate and of concern. On August 12, 1996 the Federal STB approved the merger of the UPRR and the SPRRs. In September 1996, the Board directed a comprehensive evaluation of Wichita's problem and possible mitigating actions the STB could require as a part of the approval of the UPRR/SPRR merger.

In November 1997, meetings with UPRR officials began with the goal of negotiating a reasonable settlement that would eliminate the need for the STB to impose its mitigation plan. Because of the impact of both major railroads causing traffic delays, safety concerns, delays to emergency vehicles, air pollution, and other environmental effects, the City of Wichita and Sedgwick County commissioned a study to develop and evaluate solutions to this problem. The study investigated the feasibility of constructing bypass routes around the Wichita metropolitan area, as well as potential improvements to the Central Rail Corridor such as grade separations and rail consolidation with the Burlington Northern Santa Fe (BNSF) railroad lines that also go through Central Wichita. The recommendation of this study was that an elevated corridor should be constructed from Douglas Avenue on the south end to 17th Street North on the north end. Grade-separation will be provided along the BNSF rail corridor at the following arterial streets: Douglas Avenue, 1st Street, 2nd Street, Central Avenue, Murdock Avenue, and 13th Street. Both the BNSF and UPRR will use this facility for through trains.

The elevated rail corridor will be constructed in the BNSF right-of-way. The City Council approved an Agreement with the BNSF for the construction of this project on June 17, 2003.

Analysis: A copy of the proposed Agreement with the UPRR is attached. It's key features are:

1. The UPRR operations between Douglas and 17th Street will be relocated to the new Central Rail Corridor over trackage and right-of-way owned by the BNSF.
2. The project will result in the abandonment of the existing UPRR tracks from Central to near 11th Street North.

3. To replace existing track storage lost due to construction near 18th Street, additional track storage will be constructed north of 21st Street in the existing UPRR switch yard. This requires the widening of an existing UPRR bridge over Chisholm Creek.
4. Upon completion of the project, four at/grade crossings on the UPRR lines will be eliminated: Murdock, 9th, 10th, and 11th Streets North.
5. The City shall grant an exclusive, perpetual right-of-way easement to the UPRR over City owned property generally located between 17th Street and 19th Streets North. Also, should the UPRR identify the presence of an environmental condition on the property which would adversely impact the railroad's use of the land, the City shall use reasonable efforts to eliminate said condition.
6. The Agreement allows the City to move forward with the construction of the project while the UPRR and BNSF continue to negotiate a required operational agreement.

Financial Considerations: At the present time the Central Rail Corridor Project is funded from the following sources: State System Enhancement Funds (\$44.7 Million), Federal TEA-21 Funds (\$26.9 Million), UPRR (\$13.2 Million), and Local Sales Tax (\$14.1 Million).

Legal Considerations: The Law Department has approved the Agreement as to form.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

Agenda Item No. 12a

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1203

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for The Waterfront 4th Addition (north of 13th, east of Webb) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system, sanitary sewer and storm water drainage improvements in The Waterfront 4th Addition on November 11, 2004.

Analysis: The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer and storm water drainage in The Waterfront 4th Addition. Per Administrative Regulation 7a, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to MKEC will be on a lump sum basis of \$16,900, and will be paid by special assessments.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

MKEC ENGINEERING CONSULTANTS, INC.

for

THE WATERFRONT 4TH ADDITION

THIS AGREEMENT, made this _____ day of _____, 2004, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and MKEC ENGINEERING CONSULTANTS, INC., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 90019 serving Lot 1, Block 1, The Waterfront 4th Addition (north of 13th, east of Webb) (Project No. 448 90019).

LATERAL 48, MAIN 24, WAR INDUSTRIES SEWER serving Lot 1, Block 1, The Waterfront 4th Addition (north of 13th, east of Webb) (Project No. 468 83918).

STORM WATER DRAIN NO. 242 serving Lot 1, Block 1, The Waterfront 4th Addition (north of 13th, east of Webb) (Project No. 468 83920).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in The Waterfront 4th Addition and perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$5,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90019	\$ 3,500.00
Project No. 468 83918	\$ 6,700.00
Project No. 468 83920	\$ 6,700.00
TOTAL	\$16,900.00

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the PROJECT.
4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

COUNCIL

BY ACTION OF THE CITY

Carlos Mayans, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

MKEC ENGINEERING CONSULTANT, INC.

(Name & Title)

ATTEST:

EXHIBIT "A"

SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the

PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" Mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility

company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.

8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.

9. Project Milestones. The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY within the time allotted for the PROJECT as stipulated below and generally in accordance with the project bar chart attached to Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

a. Plan Development for the water improvements by 120 days from notice to proceed.

(Project No. 448 90019).

b. Plan Development for the sewer improvements by 120 days from notice to proceed.

(Project No. 468 83918).

c. Plan Development for the storm water drain improvements by 120 days from notice to proceed.

(Project No. 468 83920).

Agenda Item No. 12b

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1204

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Woodlawn North Pointe Addition
(south of 29th Street North, east of Woodlawn) (District I)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system and sanitary sewer improvements in Woodlawn North Pointe Addition on October 12, 2004.

Analysis: The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of water distribution system and sanitary sewer in Woodlawn North Pointe Addition. Per Administrative Regulation 7a, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to MKEC will be on a lump sum basis of \$10,200, and will be paid by special assessments.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

MKEC ENGINEERING CONSULTANTS, INC.

for

WOODLAWN NORTH POINTE ADDITION

THIS AGREEMENT, made this _____ day of _____, 2004, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and MKEC ENGINEERING CONSULTANTS, INC., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 90012 serving Lots 1 through 5, Block 1; Lot 1, Block 2; Lots 1 & 2, Block 3, Woodlawn North Pointe Addition (south of 29th Street North, east of Woodlawn) (Project No. 448 90012).

LATERAL 14, MAIN 6, SANITARY SEWER NO. 23 serving Lots 1 through 5, Block 1; Lot 1, Block 2; Lots 1 & 2, Block 3, Woodlawn North Pointe Addition (south of 29th Street North, east of Woodlawn) (Project No. 468 83901).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Woodlawn North Pointe Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$1,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall

contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90012	\$ 3,400.00
Project No. 468 83901	\$ 6,800.00
TOTAL	\$10,200.00

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the PROJECT.

4. A major change in the scope of services for the PROJECT. If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work, or because the services of the ENGINEER are unsatisfactory; PROVIDED, however, that in any case the ENGINEER shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the ENGINEER'S actual costs plus a fee for profit based upon a fixed percentage of the ENGINEER'S actual costs.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY

COUNCIL

Carlos Mayans, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

MKEC ENGINEERING CONSULTANTS,

INC.

(Name & Title)

ATTEST:

EXHIBIT "A"
SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" Mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.

6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
 - a. Plan Development for the water improvements by 120 days from notice to proceed.
(Project No. 448 90012).
 - b. Plan Development for the sewer improvements by 120 days from notice to proceed.
(Project No. 468 83901).

Agenda Item No. 13a

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1205

TO: Mayor and City Council Members

SUBJECT: Change Order: Rock Road Improvement, between 21st and 29th (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Change Order.

Background: On May 18, 2004, the City Council approved a construction contract with Cornejo & Sons, Inc. to improve Rock Road between 21st and 29th Streets. A part of the work was planting bermuda grass in the medians. It has been determined that fescue sod is more appropriate for the landscaped medians. Additional thermal crack repair and retaining walls were required. The amount of irrigation system repair was also more than anticipated at the time the project was designed.

Analysis: A Change Order has been prepared for the additional work. Funding is available within the project budget.

Financial Considerations: The cost of the additional work is \$71,968, with the total paid by a combination of City-at-Large (\$14,394) and Federal Grants administered by the Kansas Department of Transportation (\$57,574). The original contract is \$1,455,771. This Change Order plus previous Change Orders represent 10.2% of the original contract amount.

Legal Considerations: The Law Department has approved the Change Order as to legal form. The Change Order amount is within 25% of the construction contract cost limit set by the City Council policy.

Recommendation/Action: It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

November 2, 2004
PUBLIC WORKS-ENGINEERING CHANGE ORDER
To: Cornejo & Sons, Inc. Project: Rock Rd. from 21st N. to 29th N.
Change Order No.: 4 Project No.: 87N-0197-01 / 472-83889
Purchase Order No.: 400706 OCA No.: 706874
CHARGE TO OCA No.: 706874 PPN: 204340
Please perform the following extra work at a cost not to exceed \$71,967.92
Over-Run:
19 - Retaining Wall 7.47 m @ \$151.00 / m = \$1,127.97
Add:
Fescue Sod 9,000 sm @ \$2.9265 / sm = \$26,338.50
4" Conc. median surfacing (Northpark Apts.) 1 LS @ \$153.00 =
\$153.00
Irrigation repairs for new sidewalk 1 LS @ \$23,897.50 = \$23,897.50
4" Irrigation sleeve in median at 11+480 1 LS @ \$1,380.00 = \$1,380.00
Top Soil for Medians 455 CM @ \$32.00 = \$14,560.00
Thermal Crack Repair 106.14 sm @ \$42.50 = \$4,510.95
21 Calendar Days related to utility conflicts (Revised Completion Date of November 30, 2004)
28 Working Days beyond November 30, 2004 for completion of sidewalk and site restoration work.
TOTAL \$71,967.92

Recommended By: Approved:

Larry Schaller, P.E. Date
Construction Engineer

Jim Armour, P.E. Date
Acting City Engineer

Approved: Approved:

Contractor Date Chris Carrier, P.E. Date
Acting Director of Public Works

Approved as to Form: By Order of the City Council:

Gary Rebenstorf Date
Director of Law

Carlos Mayans Date
Mayor

Approved:

Attest: _____

KDOT Metro Engineer

Date

City Clerk

Agenda Item No. 13b

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1206

TO: Mayor and City Council Members

SUBJECT: Change Order: Waterline Replacement along Harry, between Oliver and
Woodlawn (District III)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Change Order.

Background: On October 21, 2003, the City Council approved a construction contract to replace waterlines along Harry, between Oliver and Woodlawn. A part of the work includes the replacement of water service lines to metered homes and businesses. During the design phase of the water main replacement project, the number of water service replacements to be done are estimated based on Water Department records. The decision to replace a water service line is made during construction of the project based on the existing condition of the service line. In the case of this project, more service lines had to be replaced than anticipated. The number of service lines needed exceeded the number expected at the time the project was designed.

Analysis: A Change Order has been prepared for the additional work. Funding is available within the project budget.

Financial Considerations: The total cost of the additional work is \$11,950, with the total paid by the Water Utility. The original contract is \$341,244. This Change Order plus previous Change Orders represents 5.92% of the original contract amount.

Legal Considerations: The Law Department has approved the Change Order as to legal form. The Change Order amount is within 25% of the construction contract cost limit set by the City Council policy.

Recommendation/Action: It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

PUBLIC WORKS-ENGINEERING CHANGE ORDER

October 26, 2004

To: Barkley Construction Project: 2004 Wheelchair Ramp & Sidewalk – Phase 1

Project No.: 472-83966

Change Order No.: 1 OCA No.: 705

Purchase Order No.: 400703 PPN.: 204345

CHARGE TO OCA No.: 792409

Please perform the following extra work at a cost not to exceed \$12,900.00

Construct wheelchair ramps to meet ADA requirements in the following parking lots: McAdams Park South, Barry Sanders Field, McAdams Swimming Pool, Grove Park, Eastview Park, Cessna Park, Linwood Park, West Meadows Park, Country Acres Park and at the Main Library. (Refer to attachment for specific locations and details).

OVERRUN: (Measured Quantity Items):

Wheelchair Ramp w/Det. Warn. – 15 ea @ \$300.00/ea = \$ 4,500.00

Comb. Curb & Gutter (Remvd & Repl.) – 250 lf @ \$11.00/lf = \$ 2,750.00

4" Sidewalk Construction – 2,260 s.f. @ \$2.50/sf

= \$ 5,650.00
Total \$12,900.00

Recommended By: Approved:

Lawrence Schaller, P.E. Date Jim Armour, P.E. Date
Construction Engineer Acting City Engineer

Approved: Approved:

Contractor Date Chris Carrier, P.E. Date
Acting Director of Public Works

Approved as to Form: By Order of the City Council:

Gary Rebenstorf Date Carlos Mayans Date
Director of Law Mayor

Attest: _____
City Clerk

Agenda Item No. 13c

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1207

TO: Mayor and City Council Members

SUBJECT: Change Order: 2004 Wheelchair Ramps & Sidewalk Project (District I, II, III and V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Change Order.

Background: On March 16, 2004, the City Council approved the 2004 Wheelchair Ramp and Sidewalk Project. It is part of an ongoing program to comply with Federal accessibility requirements. On May 11, 2004, the City Council approved a construction contract with Barkley Construction Company. Since that time it has been determined that additional wheelchair ramps are needed for the parking lots at several parks.

Analysis: A Change Order has been prepared for the additional work. Funding is available within the project budget.

Financial Considerations: The total cost of the additional work is \$12,900 with the total paid by the General Obligation Bonds. The original contract amount is \$172,700. This Change Order represents 7.47% of the original contract amount.

Legal Considerations: The Law Department has approved the Change Order as to legal form. The Change Order amount is within 25% of the construction contract cost limit set by the City Council policy.

Recommendation/Action: It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

Agenda Item No. 14

CITY OF WICHITA
City Council Meeting
December 14, 2004

Agenda Report No. 04-1208

TO: Mayor and City Council Members

SUBJECT: Acquisition of Lands for Intergrated Local Water Supply Plan

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On August 3, 1993 the City Council approved the Water Supply Plan prepared by Burns & McDonnell/MKEC Engineering Consultants. The Plan identified cost-effective water resource projects to meet the City's future water needs. On October 10, 2000 City Council approved the projects and implementation of the plan. One portion of the Water Supply Plan is the groundwater recharge project which includes the capture of above base flow water (water which is generated from rainfall runoff above the base river flow) in the Little Arkansas River, the transfer to and storage of captured water in the aquifer, and the recovery and use of this water to meet future demands for the City of Wichita. The Equus Beds Aquifer underlies portions of Sedgwick, Harvey, McPherson and Reno Counties and is located within the boundaries of Groundwater Management District No. 2. Since the 1950's water levels in the aquifer have dropped 20 to 40 feet as a result of heavy utilization.

Analysis: Nine sites were identified as necessary for the capture of above base flow water; an additional six sites were identified as necessary for the location of water treatment, recharge/ recovery wells, recharge well, or recharge basins for this phase of the recharge project. One site for a recharge basin was previously purchased. The City has successfully negotiated for the remaining fourteen sites necessary for the present phase of the project. The agreements include a land purchase as well as permanent easements for the sites and some permanent and temporary easements for supporting pipelines and necessary access roads.

Financial Considerations: A budget of \$325,000 is requested; this includes \$315,000 for acquisition and \$10,000 for title work and closing. Funding for this project is included in the CIP in W-549, Water Supply Plan Phase III, which has an available funding of over \$7.6 million

Legal Considerations: The Law Department has approved the contracts as to form.

Recommendation/Action: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and Permanent Easement Agreements; and 3) Authorize all necessary signatures.

Agenda Item #15

City of Wichita
City Council Meeting

December 14, 2004

Agenda Report No. 04-1209

TO: Mayor and City Council Members

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures

Council Districts I, III, IV and VI

INITIATED BY: Office of Central Inspection

AGENDA: Consent

Recommendations: Adopt the resolutions.

Background: On November 8, 2004 the Board of Code Standards (BCSA) held a hearing on the following twelve (12) properties. These properties are considered dangerous and unsafe structures, and are being presented to schedule a condemnation hearing before the Governing Body.

Analysis: Improvement notices have been issued on these structures, however, compliance has not been achieved. Pre-condemnation and formal condemnation letters were issued and the time granted has expired. No action has been taken to repair or remove these properties.

Property Address	Council District
a. 1438 North Estelle	I
b. 1707 North Spruce	I
c. 1638 North Minneapolis	I
d. 2048 North Minnesota	I
e. 3100 North Park Place (small house)	VI
f. 747 North Sheridan	VI
g. 219 North Elizabeth (garage)	IV
h. 215 North Millwood #10	IV
i. 1615 West Maple	IV
j. 2714 West Maple	IV
k. 1423 West Burton	IV
l. 1815 South Exchange	III

Legal Considerations: These structures have defects that under Ordinance No. 28-251 of the Code of the City of Wichita, shall cause them to be deemed as dangerous and unsafe buildings, as required by State Statute for condemnation consideration.

Recommendations/Actions: Adopt the attached resolutions to schedule a hearing and place these matters on the agenda for a Hearing before the Governing Body on February 1, 2005 at 9:30 a.m. or as soon thereafter.

Agenda Item #16

City of Wichita

City Council Meeting

December 14, 2004

Agenda Report No. 04-1210

TO: Mayor and City Council

SUBJECT: Settlement of Litigation—Case No. 03 CV 3344 (Dist. 3)

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Authorize payment of \$5,000.00 as a full settlement of this litigation.

Background: This is an eminent domain appeal involving property at 528 N. Santa Fe that the City acquired in connection with the Central Rail Corridor Project.. The court appointed appraisers awarded the property owner \$41,000 and the property owner appealed.

Analysis: The property owner has offered to settle this matter for payment of an additional \$5,000 as compensation for the acquisition of his property. Given the risks and costs of litigating this matter through trial, it is likely that it will cost the City more than \$5,000.

Financial Considerations: Funding for this payment is from the Central Rail Corridor Project.

Legal Considerations: The Law Department recommends acceptance of the settlement offer.

Recommendations/Actions: Authorize payment of \$5,000.00 in full settlement of Case No. 03 CV 3344.

Agenda Item #17

City of Wichita
City Council Meeting

December 14, 2004

Agenda Report No. 04-1211

TO: Mayor and City Council

SUBJECT: Settlement of Litigation—Case No.03 CV 3345 (Dist. 3)

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Authorize payment of \$5,000.00 as a full settlement of this litigation.

Background: This is an eminent domain appeal involving property at 750 East Pawnee that the City acquired in connection with the Pawnee Rail Grade Separation Project.. The court appointed appraisers awarded the property owner \$85,000 and the property owner appealed.

Analysis: The property owner has offered to settle this matter for payment of an additional \$5,000 as compensation for the acquisition of his property. Given the risks and costs of litigating this matter through trial, it is likely that it will cost the City more than \$5,000.

Financial Considerations: Funding for this payment is from the Pawnee Rail Grade Separation Project.

Legal Considerations: The Law Department recommends acceptance of the settlement offer.

Recommendations/Actions: Authorize payment of \$5,000.00 in full settlement of Case No. 03 CV 3345.

Agenda Item # 18

CITY OF WICHITA
City Council Meeting

December 14, 2004

Agenda Report No. 04-1212

TO: Mayor and City Council Members

SUBJECT: Contract for Outside Legal Services -- Garver Construction Ltd. v. City of Wichita, et al., Case No. 03 CV3723

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Approve amendment to existing contract with outside counsel to increase maximum payment for fees and expenses.

Background: In September 2003 the City was sued by Garver Construction, Ltd. in connection with a construction contract between the City and Garver. In December 2003, the Council selected Hite, Fanning & Honeyman to represent the City's interests in that lawsuit and entered into a contract for that representation. The maximum payment for fees and expenses in that contract was \$50,000.

Analysis: Hite, Fanning & Honeyman has performed substantial legal work in defending the City over the past year and the maximum amount of fees and expenses set out in the original contract has been met. In order to continue to represent the City adequately in this matter such maximum amount needs to be increased by \$50,000.

Financial Considerations: The fees and expenses for the City's defense of this lawsuit will be paid by the Water and Sewer Utility.

Legal Considerations: The Law Department has approved the amendment to the original contract for legal services as to form.

Recommendations/Actions: Authorize the Mayor to execute the amendment to the contract on behalf of the City increasing the maximum amount of fees and expenses that may be expended to \$100,000.

Agenda Item No. 19

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1213

TO: Mayor and City Council

SUBJECT: Ordinance appropriating the 2005 budget; ratifying the payment of claims against the 2004 budget

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: Approve the Ordinance.

Background: Each year the City Council must appropriate and approve the spending of the next year's budget according to the approved budget and also authorize, approve and ratify the payments, which have occurred against the current year budget.

Analysis: Appropriated amounts for each fund have been established in the budget for fiscal 2005 for the payment of all claims and charges against each fund. Payments of all claims and charges against each fund shall be made by a combination of checks and warrants, drawn by the Director of Finance and counter-signed by the City Manager and Treasurer as provided by law. The payment of all claims and charges against respective accounts and funds provided in the budget for the year 2004 are also required to be authorized, ratified and approved.

Financial Considerations: None.

Legal Considerations: The Ordinance has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approved the Ordinance.

Published in the Wichita Eagle

ORDINANCE NO. _____

AN ORDINANCE APPROPRIATING THE AMOUNTS SET UP IN EACH FUND IN THE BUDGET; PROVIDING FOR THE PAYMENT OF ALL CLAIMS AND CHARGES AGAINST THE ACCOUNTS PROVIDED FOR THEREIN; AND APPROVING AND RATIFYING THE PAYMENT OF ALL CLAIMS AGAINST THE ACCOUNTS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That there is hereby appropriated the amounts set up in each fund in the budget for the fiscal year 2005 for the payment of all claims and charges against each

fund. Payments of all claims and charges against each fund shall be made by combination of checks and warrants, drawn by the Director of Finance and counter-signed by the City Manager and Treasurer as provided by law, provided, however, that such officers shall at all times comply with the provisions of the Budget Law and the Cash Basis Law of the State of Kansas.

SECTION 2. That the payment of all claims and charges against the respective accounts and funds provided in the budget for the year 2004 are hereby authorized, ratified and approved.

SECTION 3. It is hereby attested that in order to maintain the public services essential for the citizens of this city in the budget year 2005, it will be necessary to utilize property tax revenue in an amount exceeding the revenues expended in the budget year 2004. The estimated amount of increased property tax revenue is \$86,212.

SECTION 4. This Ordinance shall take effect and be in force from and after its passage and publication once in the official city paper.

PASSED by the Governing Body of the City of Wichita, Kansas, this day of December, 2004.

Carlos Mayans, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, City Attorney
and Director of Law

Agenda Item #20

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1214

TO: Mayor and City Council

SUBJECT: Application for Rudy Bruner Award for Urban Excellence

INITIATED BY: Department of Environmental Health

AGENDA: Consent

Recommendations: Approve the application and award.

Background: Each year the Bruner Foundation sponsors a municipal government award, the Rudy Bruner Award for Urban Excellence. This program was established to recognize municipal government's contribution to the richness and diversity of the urban experience. Based on its innovative structure, unique approach to pollution awareness, groundwater reuse, and environmental education mission, the EH Department would like to apply for this award for the design, construction and operation of the WATER Center. The WATER Center is a working environmental education facility as well as a groundwater treatment plant. Its mission is to demonstrate the hydrological and geo-physical processes involved in groundwater remediation -- to provide education concerning groundwater, environmental threats and public health problems posed by water pollution; to illustrate the inter-relationship between the groundwater and the Arkansas River; and to provide an opportunity to experience and appreciate the power, beauty and importance of a natural resource: water. The 1.2 million gallons of water that is treated each day is reused for environmental education, park enhancement, and for wildlife. The ultimate goal is to protect public health and to show the life supporting qualities of the cleaned groundwater.

Analysis: The Department of Environmental Health is seeking authorization to apply for the Rudy Bruner Award for Urban Excellence. This award could fund one or more new hands-on environmental education exhibits at the WATER Center. The educational component of the WATER Center has been designed similarly to that of our local nature center, Great Plains Nature Center. Once their exhibits and displays were installed, the Nature Center was able to reach 150,000 visitors a year. The WATER Center's objective is to provide a similarly large number of visitors with the water protection and conservation, pollution prevention, and environmental stewardship message.

Financial Considerations: This prestigious Rudy Bruner Award for Urban Excellence award not only brings honor to the recipient(s) but also funding. The award amount ranges from \$10,000 to \$50,000. If DEH is a successful award winner, funds would be used for completion of new environmental education exhibits at the WATER Center. There is no match required.

Legal Considerations: The Law Department has approved the application as to form.

Recommendation/Actions: It is recommended the City Council approve the award application and authorize the necessary signatures.

Agenda Item No.21

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1215

TO: Mayor and City Council

SUBJECT: Helen Galloway/Fran Jabara Gift

INITIATED BY: Arts & Culture Division

AGENDA: Consent

Recommendation: Accept donation, and authorize staff to solicit bids for site work.

Background: Helen Galloway and Fran Jabara have generously donated a fountain to be placed in the area between the Wichita Public Library downtown branch, and Century II. The City of Wichita has received numerous sculptures and public improvements around the Century II area from these individuals. As part of an ongoing commitment from them, they have donated this additional fountain to continue beautifying the area between Century II and the Wichita Public Library.

Analysis: This project will require site work, in the amount of approximately \$12,000, and additional ongoing maintenance once the project is completed. Staff recommends that Council accept the gift.

Financial Consideration: It is estimated that \$12,000 will be needed for site work. The project will be paid for out of City's cash reserves. The annual maintenance costs are estimated at \$5,760.00 and staff will request that funds be budgeted for this purpose.

Legal Consideration: None.

Recommendations/Actions: Accept the donation and authorize staff to solicit bids for site work.

Agenda Item #22

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1216

TO: Mayor and City Council

SUBJECT: FY2004 Weed and Seed Program – District I

INITIATED BY: Police Department

AGENDA: Consent

Recommendation: Approve the receipt of funds

Background: The Weed and Seed Program is a federally-funded grant program that brings together Federal, state, and local law enforcement agencies; social service providers; representatives of the public and private sectors; prosecutors; business owners; and neighborhood residents to "weed" out violent crime and gang activity, while "seeding" the community with social services and economic revitalization. The Weed and Seed Program is administered in "officially recognized" sites. Since 1995, the officially recognized site has the following boundaries: Central on the South, Old Manor from 17th to Central and Hillside from 17th to 27th Street on the East, Mosley on the West, and 27th Street on the North.

Analysis: For federal fiscal year 2004, funding for the "weeding" component of the Weed and Seed Program is provided through federal funds granted to the Wichita Family Services Institute, Inc. for law enforcement activities. The Wichita Police Department will receive \$65,878 from the 2004 Weed and Seed Program for expenses, including overtime, training, equipment, vehicle rental, and buy money.

Financial Considerations: The Wichita Police Department will receive payment of \$65,878 from the Wichita Family Services Institute, Inc. for overtime, training, equipment, vehicle rental, and buy money. No local match is required.

Legal Considerations: None.

Recommendations/Actions: It is recommended that the City Council approve the receipt of funds.

Agenda Item No. 23

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1217

TO: Mayor and City Council

SUBJECT: Unified Planning Work Program For Fiscal Year 2005

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Consent

Recommendation: Adopt a joint Resolution authorizing the Metropolitan Area Planning Department to execute the Metropolitan Planning Organization's FY 2005 Unified Planning Work Program (UPWP).

Background: The Unified Planning Work Program (UPWP) is the Metropolitan Planning Organization's document describing the work elements planned for FY 2005. The United States Department of Transportation (DOT) stipulates that a UPWP must include the annual application for federal transportation planning funds. After approval by various officials and agencies, the UPWP will be used as the authorization document for making applications for funds to support our local transportation planning programs.

The joint resolution of the Wichita-Sedgwick County Metropolitan Planning Organization, Wichita City Council and Sedgwick County Board of Commissioners, authorizes the request of planning funds, the filing of applications and the execution of contracts and agreements for federal and state grants, and the undertaking of the necessary planning work.

Analysis: Federal funds being requested will provide funding for nine full-time equivalent staff positions plus miscellaneous expenses and consultant fees, which will allow the Metropolitan Area Planning Department (MAPD) to continue to evaluate the feasibility of short- and long-range transportation options and to develop strategies for implementing elements of the Transportation Plan. This work allows the City of Wichita to continue receiving federal and state construction funds for implementing projects.

The Technical Advisory Committee is scheduled to review and consider approval of the FY 2005 UPWP on November 22, 2004. The Board of Sedgwick County Commissioners will consider approval of the resolution on December 8, 2005 and the Planning

Commission, as the Metropolitan Planning Organization (MPO) for transportation planning, is scheduled to consider approval of the FY 2005 Unified Planning Work Program (UPWP) on December 9, 2005.

The availability of local funds for other planning projects is determined in the City and County budget process. A resolution is attached to authorize the Director of the MAPD to make applications for federal funds up to a total of \$1,827,028. A carryover of an additional \$971,000 in federal planning funds for the South Area Transportation Study (SATS) is also included in this year's work program.

Financial Considerations: The activities described in the UPWP are funded from two sources: the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA), and are administered through the Kansas Department of Transportation (KDOT). The MAPD will make available non-federal matching funds in support of the UPWP. The amount of local match (provided as in-kind staff services: \$441,757) required to receive federal assistance is shown below:

	Federal Funds Match	Funding Ratio	Total Funds	
Annual USDOT Planning Grant	\$1,767,028	\$441,757(Local in-kind)	80/20	
\$2,208,785				
Annual USDOT Planning Grant	\$60,000	\$15,000(KDOT cash)	80/20	
\$75,000				
South Area Study(NCPD grant)	\$971,000	\$194,200(KDOT Soft)	80/20	
\$971,000				

Legal Considerations: The Law department has approved the resolution as to form.

Recommendations/Actions: Adopt the City / County / MPO joint resolution.

Attachments:

1. FY 2005 Unified Planning Work Program
2. Joint Resolution

Agenda Item No. 24

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1218

TO: Mayor and City Council

SUBJECT: Railbanking Burlington Northern and Santa Fe (BNSF) 45th Street North to Valley Center.

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Consent

Recommendation: Authorize staff to negotiate railbanking with BNSF from 45th Street near Park City to west of Meridian in Valley Center.

Background: The 21st Street Revitalization Corridor Plan proposes the realignment of the BNSF mainline and rail yard activities from its current location along Broadway Boulevard to the existing Frisco main that is also owned by the BNSF Railroad. This recommendation in the proposed 21st Street Plan, to shift the railroad activities away from Broadway, is part of a solution to limit the number of rail-street at-grade crossings in North-Central Wichita.

Analysis: The BNSF Railway is proposing to abandon nearly six miles of trackage between Wichita and Valley Center. (See attached map.) Upon abandonment, the underlying railroad easement will be extinguished and the property will revert back to the original owners or their successors. Reacquiring a continuous railroad corridor after the abandonment is generally difficult due to structural changes and permanent improvements on private property.

In lieu of railroad abandonment, the railroad easement can be preserved by formally railbanking this corridor. Railbanking the Wichita-Valley Center line preserves the future option of moving trains more efficiently and safely through North-Central Wichita.

Financial Considerations: In order to establish railbanking, the City of Wichita will need to assume full responsibility for maintaining the corridor and for any legal liability arising out of the transfer of the corridor. The first year's cost to maintain the corridor, including trash and weed removal is estimated at \$39,152, and the annual operating cost for subsequent years is \$4,152.

Legal Considerations: Upon railbanking, city crews will be responsible for maintenance and access to the corridor. The City of Wichita is also responsible for any legal liability arising out of the transfer of the corridor.

Recommendations/Actions: It is recommended that the City Council authorize staff to negotiate railbanking with BNSF for the line that runs from 45th Street near Park City to west of Meridian in Valley Center.

Agenda Item No. 25

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1219

TO: Mayor and City Council

SUBJECT: Contract for Professional Services - Regional ITS Architecture

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Consent

Recommendation: Approve a contract for completing a Regional Intelligent Transportation System (ITS) Architecture

Background: Federal regulations require that all ITS projects involving the operations and management of traffic flow, transportation safety, and incident management be integrated to provide greater efficiencies in the delivery of safe transportation services. The Regional ITS Architecture provides the forum for coordination across jurisdictions and provides a framework for institutional agreement and technical integration of ITS implementation projects. .

Analysis: Metropolitan Planning Organizations (MPOs) are required to develop and maintain a regional ITS Architecture. ITS stakeholders within the Wichita-Sedgwick County region have previously participated with the National ITS Architecture Team to partially develop the regional architecture. Professional services of Iteris, Inc. will help complete the regional architecture, provide recommendations for its integration into the transportation planning process, and provide guidance for maintaining the regional architecture. A communications plan conforming to national ITS protocol standards, and updated cost estimates of ITS projects will also be provided.

Seven proposal were received in response to the Request for Proposals (RFP). Iteris, Inc. was chosen unanimously by members of the consultant selection committee that comprised of officials from the Federal Highway Administration, Kansas Department of

Transportation, staff from Wichita and Sedgwick County Public Works and IT departments, and the MAPD.

Financial Considerations: This contract is for a total sum of \$248,937.35 Federal transportation planning funds available to the MPO will be used to pay 100 percent of the costs associated with the contractual services.

Legal Considerations: The Law department has approved the contract as to form. Federal regulations require all metropolitan areas to have an adopted Regional ITS Architecture by April 8, 2005.

Recommendations/Actions: It is recommended that the City Council approve the selection of Iteris, Inc. to complete the Regional ITS Architecture, and authorize the necessary signatures to execute the contract.

Attachment:

1. Consultant agreement and scope of work

**CONTRACT FOR PROFESSIONAL SERVICES
REGIONAL INTELLIGENT TRANSPORTATION ARCHITECTURE**

THIS AGREEMENT made and entered into this ____ day of _____, 2004, by and between the City of Wichita, Kansas, party of the first part (hereinafter referred to as “the City”); and the Iteris, Inc., party of the second part (hereinafter referred to as “the Consultant”)

WHEREAS, the City is interested in development of a Regional Intelligent Transportation System (ITS) Architecture; and

WHEREAS, the Consultant has the knowledge, experience and expertise in Regional Intelligent Transportation System (ITS) Architecture to undertake this Project on behalf of the City; and

WHEREAS, the City desires to retain the services of the Consultant to complete the Regional Intelligent Transportation System (ITS) Architecture.

NOW, THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. DESCRIPTION OF SERVICES. The Consultant will provide the services and deliver the documents as set forth in Exhibit "A" a copy of which is attached hereto and incorporated herein by reference.

2. PERFORMANCE OF SERVICES. The Consultant shall determine the manner in which its services hereunder are to be performed and the specific hours to be worked in performing such services; provided, however, that the Consultant will complete such services and deliver the federally required Regional Architecture documents no later than April 4, 2005 and all other services and components included in the Scope of Work by June 1, 2005.

3. PAYMENT. The City will pay the Consultant for time and expenses actually incurred in providing the services herein, but not to exceed a maximum payment of \$248,937.35. Said fee shall be payable monthly based on statements provided by the Consultant itemizing the number of hours of work performed, the percentage of the services hereunder completed and in compliance with Exhibit "B".

4. TERM/TERMINATION. This agreement shall terminate upon the satisfactory completion by the Consultant of the services and documents required to be provided hereunder, or upon 20 days written notice of cancellation by the City of Wichita. Upon receipt of such notice of termination the Consultant shall discontinue and cause all such work to terminate upon the date specified in the notice from the City. The Consultant will be entitled to compensation for actual effort performed up to the date of termination. Any invoice for completed work or termination claim must be submitted to the City within thirty (30) days after the effective date of termination.

5. RELATIONSHIP OF PARTIES. It is understood and agreed that the Consultant is an independent contractor.

6. NOTICES. All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficient if delivered in person or deposited in the United States mail, postage prepaid, and addressed as follows:

For the City: John L. Schlegel, Director
 Wichita-Sedgwick County
 Metropolitan Area Planning Department
 455 N. Main St. – 10th Floor
 Wichita, KS 67202-1688

For the Consultant: Clifford D. Heise, Vice President
 Iteris, Inc.
 107 Carpenter Drive, Suite 230
 Sterling, VA 20164

7. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement, either oral or written. This Agreement supersedes any prior written or oral agreement between the parties pertaining to the same subject matter.

8. AMENDMENT. This Agreement may be modified or amended if the modification or amendment is made in writing and signed by the parties.

9. SEVERABILITY. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds any provision of this Agreement is invalid or unenforceable, but by limiting the applicability of such provision the entire Agreement would be valid and enforceable, then such provision shall be deemed to be written, construed and enforced as limited.

10. WAIVER OF CONTRACTUAL RIGHT. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

11. APPLICABLE LAW. This Agreement shall be governed by the law of the State of Kansas. The Consultant will comply with all the requirements listed in Exhibit "C".

APPROVED AS TO FORM:

CITY OF WICHITA, KANSAS

By _____
Gary E. Rebenstorf
City Attorney

By _____
Carlos Mayans
Mayor

ITERIS, INC.

ATTEST:

By _____
Clifford D. Heise,
Vice President

Karen Sublett
City Clerk

EXHIBIT A
SCOPE OF WORK
DEVELOPMENT of a REGIONAL ITS ARCHITECTURE

The Consultant team (hereafter, Iteris) will develop a Regional ITS Architecture for the Wichita-Sedgwick County Region that is consistent with the National ITS Architecture and compliant with FHWA Rule 940. The Regional Architecture will be composed of the Architecture, an Implementation Plan, and a Communications Plan. The Architecture will provide the region with a blueprint for deploying integrated, effective ITS. Iteris will use the Wichita ITS Architecture developed in the Tier II Workshop in 2001 as a starting point. Iteris will follow a process in developing the Wichita-Sedgwick County Regional ITS Architecture that includes the following tasks and deliverables:

1. Project Management

Iteris will provide management of the Wichita-Sedgwick County ITS Architecture development project. Iteris will attend management meetings in the Wichita-Sedgwick County area in person or by teleconference as requested by the MAPD Project Manager. Iteris will provide monthly progress reports to the MAPD Project Manager. Iteris will apply a quality assurance program to maintain the quality of the architecture materials produced.

2. Architecture Technical Development

2.1 Review/Update Existing Architecture

Iteris will thoroughly review the Wichita-Sedgwick County ITS Architecture and all other documents relevant to ITS in the Wichita-Sedgwick County Region, such as the Wichita Early Deployment Planning Study. In addition, Iteris will review other available information provided by the Wichita-Sedgwick County Region on projects that are planned but have not been thoroughly documented. Any updates to the regional definition, stakeholder list, systems inventory or needs and services resulting from changes found in the course of the reviews will be made to the Turbo Architecture Version 3.0 database.

2.2 Update/tailor Market Packages

Iteris will update and tailor the market packages identified for the Wichita-Sedgwick County ITS Architecture. Iteris will map the systems in the ITS Architecture to market packages based on the needs and services identified in the region.

2.3 Operational Concept Development

Iteris will generate an operational concept for the Wichita-Sedgwick County Region based on documentation review, stakeholder interviews, and the existing architecture information. The operational concept will describe in narrative form the relationships and dependencies of the existing and planned systems within the region. The operational concept will be used to derive and identify functional requirements for the primary systems in the region as the architecture is updated. The Roles and Responsibilities identified for each stakeholder will be entered into the Turbo Architecture Version 3.0 database. The narrative Operational Concept will be documented separately.

2.4 Functional Requirements Development

Iteris will generate functional requirements based on the Operational Concept and the Wichita-Sedgwick County ITS Architecture definition. Iteris will map/associate the functional requirements to architecture elements or systems.

2.5 Update/Tailor Interconnects in Architecture

Iteris will update and tailor the interconnects between systems based on the operational concept and the needs and services. Iteris will tailor the interconnects to reflect the existing and planned conditions in the Wichita-Sedgwick County Region.

2.6 Review/Tailor architecture flows in architecture

Iteris will review all interconnects in the architecture, and tailor the information exchanges on the included interconnects to reflect the existing and planned conditions in the Wichita-Sedgwick County Region.

3. Stakeholder Outreach

3.1 Architecture Technical Workshop

Iteris will conduct a stakeholder workshop structured to review architecture information with the stakeholders and gather their comments. The Workshop will be scheduled for 3 days. The first 2 days will be devoted to gaining stakeholder consensus on system inventory, services, operational concept, and functional requirements. The 3rd day will be for stakeholder agency management to present the architecture information to date and educate them on the benefits of the architecture as a tool. Iteris will develop all materials necessary for the conduct of the workshop.

3.2 Implementation Plan and Communications Plan Workshop

Iteris will conduct a stakeholder workshop structured to review Implementation Plan and Communications Plan with the stakeholders and gather their comments. The Workshop will be scheduled for 3 days. The first 2 days will be devoted to gaining stakeholder consensus on project sequencing, agency agreements, planning process and project definition process changes to accommodate the use of the architecture, communications needs and solution alternatives. The 3rd day will be for stakeholder agency management to present the Implementation and Communication Plans to date and educate them on the benefits of their use in the planning of ITS in the region. Iteris will develop all materials necessary for the conduct of the workshop.

3.3 Public Forum

Iteris will conduct a one-day “architecture show and tell” public forum hosted by the MAPD to solicit input from the public followed by a two week comment period. Following the two week comment period, Iteris will prepare materials including a presentation to the MPO in preparation for an MPO meeting. If necessary, Iteris will participate in the MPO meeting with the goal being the approval of the regional ITS architecture by the MPO. It is intended that the Public Forum meeting will occur in conjunction with or take place after the Implementation Plan and Communications Plan Workshop.

3.4 Conduct Stakeholder Reviews

Iteris will review the architecture with the appropriate stakeholders as necessary. Telephone interviews or meetings with individual or small groups of stakeholders will be held to gather inputs or discuss issues.

3.5 Project Website

Iteris will develop and host a project website to inform stakeholders of the architecture development effort and to provide a conduit for stakeholder input and review. At the conclusion of this project Iteris will provide a hyperlinked HTML version of the architecture for hosting on the Wichita-Sedgwick County Metropolitan Area Planning Department’s website.

4. Implementation Plan Development

4.1 Project Sequencing

Iteris will document the sequence of projects that will implement the architecture defined. Projects will be grouped into short (0-5 years), medium (5-10 years) and long (10 + years) timeframes. These groupings will guide the long range planning efforts as well as identifying projects (short term) that should be considered for the TIP. Project will be defined by evaluating the architecture, the needs of the region and stakeholder input.

4.2 Agency Agreements

Iteris will identify a list of agency agreements that should be established for critical interfaces between major subsystems in the architecture. Iteris will support the development of relevant agreements from agencies by providing support materials derived from the architecture and Iteris’ outreach experience including presentations, brochures, posters, etc.

4.3 ITS Standards

Iteris will identify applicable ITS standards for all information exchanges identified in the architecture. Information exchanges that are not being standardized will be noted.

4.4 Project Planning Process Incorporation

Iteris will develop a plan and approach for incorporating the ITS architecture into the Wichita-Sedgwick County region’s transportation planning process and the project definition process. This task will identify agency responsibility, process, and provide guidance.

4.5 Project Probable Cost Calculations

Iteris will provide probable cost calculations for the identified projects based on the format of Appendix F of the Wichita Metropolitan Area ITS Early Deployment Study dated December 1998 within the context of the short, medium and long term timeframes defined in the previous project sequencing section. The project cost allocation will be tied to the known funding constraints provided by the MAPD.

4.6 Architecture Maintenance Plan

Iteris will generate a draft Architecture Maintenance Plan that will describe the process, roles, and responsibilities of the stakeholders in maintaining the Wichita-Sedgwick County Regional Architecture. The Plan will be validated and updated throughout the Stakeholder Outreach effort.

5. Communication Plan Development

5.1 Review of Existing Communications Planning Documents

Iteris will review the Kansas DOT/ City of Wichita/ Sedgwick County Mobile Data and Automatic Vehicle Location Needs Assessment and Alternatives Analysis Report and other documents and planned project/study information that emerge during the stakeholder meetings. Iteris will define the information exchange needs as identified in those documents, with the objective of correlating them to the information flows identified in the architecture.

5.2 Identify Available Communications Resources

This review will include a technology review of available and locally planned communications options such as cable system and wireless communications, and provide an inventory of existing agency-owned communications infrastructure and capabilities. Iteris will not conduct field surveys of existing resources, under the assumption that few such resources exist, or that field information is available. Iteris will only proceed with analysis of resources that are currently documented or where information is available regarding planned communication resources.

5.3 Define and Analyze Communication Requirements

Communications requirements vary depending on the specific application. Iteris will define communications system requirements that will have the greatest impact on future communications infrastructure development and strategic ITS deployment including but not limited to information requirements from regional ITS architecture being developed in previous tasks.

5.4 Analyze Communications Needs

Based on the requirements, Iteris will develop a composite assessment of communications needs, considering the center and roadside subsystems as defined during initial development of the regional architecture, including

- Device and user requirements: including traffic signal controllers, dynamic message signs, video surveillance, highway advisory radio, other surveillance and control field equipment, KDOT Transportation Management Center and local Traffic Control Centers as identified in the Wichita-Sedgwick County Regional ITS Architecture. The needs will consider data flow, polling rates, timing requirements, latency, real-time determinism, standard protocol overhead and impact on performance, and other important performance parameters that emerge during the course of the work. Iteris will focus on freeway management activities under the jurisdiction of KDOT.
- Capacity requirements: including existing and proposed systems, devices and users to allow for system expandability as needed.
- Physical constraints requirements: this constraint will impact the decision on whether to go aerial or underground in case of cable systems and whether the system deployment should include wireless or cell phone type systems for some remote areas of the network. Iteris will determine these constraints based on existing documentation, general surveys, and other available information (e.g., IT plans) and will not attempt to conduct detailed field surveys of potential physical constraints.
- Reliability and Maintainability Requirements: considering needs for redundant design, maintenance specialization requirements, current staff capabilities, overall maintenance workload, and network durability.

5.5 Outline Network Architecture Options

Iteris will develop a list of alternative network approaches that each meet the needs identified.

6. Final Architecture Development

6.1 Produce architecture reports and diagrams

Iteris will produce an architecture document including operational concept, system functional requirements, stakeholders list, the system inventory, ITS services, system interconnects and system information exchanges. For all of the interfaces in the region, the applicable ITS standards will be identified. Interface diagrams (i.e. context diagrams) will be created for all the major subsystems within the region. These subsystems will be determined by their criticality to the region and on their contribution to the safe and efficient operation of the transportation system in the Wichita-Sedgwick County Region.

Iteris will deliver the architecture definition in a Turbo Architecture Version 3.0 format.

EXHIBIT B **ITERIS COST PROPOSAL**

A. Summary Total Direct Payroll Costs

	<u>Hrs.</u>	<u>Rate</u>	<u>Total</u>
P.M.	326	\$57.94	\$18,888.44
Deputy P.M.	168	\$50.50	\$8,484.00
Architecture Staff	433	\$40.86	\$17,692.38
Communications Staff	148	\$50.90	\$7,533.20
Technical Advisor	168	\$61.46	\$10,325.28
Website Admin.	102	\$49.60	\$5,059.20
Support	72	\$15.76	\$1,134.72
Total Direct Payroll Costs			<u>\$69,117.22</u>

A Salary Related and General Overhead 163.94% \$113,310.77

B. Total Payroll Plus Overhead \$182,427.99

B.1 Subconsultant \$30,000.00

Subtotal \$212,427.99

C. Net Fee 12% \$25,491.36

D. Total Direct Payroll, Overhead, and Net Fee \$237,919.35

E. Direct Expense

	Travel, Postage, Misc.				
Mileage	7	600	\$	0.37	\$1,533.00
Airfare					\$4,405.00
ODC (printing)					\$1,000.00
Total Other Direct Expenses					<u>\$4,080.00</u>

\$11,018.00

TOTAL COST PLUS NET FEE \$248,937.35

Iteris Staff Category Assignments

Jeff Brummond

P.M.

Mike Malone
Susan Walker
Charles Neal
Rick Denney
Doug Siesel
Cliff Heise
Moe Zarean
Chuck Gendry
Elizabeth Vigano

Deputy P.M.
Architecture Staff
Architecture Staff
Communication Staff
Communication Staff
Technical Advisor
Technical Advisor
Website Admin.
Admin. Support

Propriety Information included on this page

EXHIBIT C

State of Kansas
Department of Administration
DA-146a (Rev. 1-01)

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 1-01), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20____.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.
2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall

constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Parties to this contract understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the State to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

Agenda Item No. 26

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1220

TO: Mayor and City Council

SUBJECT: Reconstruction and/or Rehabilitation of Sanitary Sewers

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the project expenditure.

Analysis: The Sewer Maintenance Division of the Water & Sewer Department maintains the sanitary sewer system. Preventive maintenance includes the use of closed circuit cameras in evaluating the old sewer lines. The sewer lines that are in the poorest condition are scheduled for reconstruction or rehabilitation. The reconstruction and rehabilitation of sanitary sewers helps to eliminate stoppages, backups, failures, and reduces inflow and infiltration (I&I) into the system. Maintenance costs are reduced, as well as considerable inconvenience to customers.

Financial Considerations: Capital Improvement Program, Reconstruction of Old Sanitary Sewers

(CIP S-4) has a budget of \$4,300,000 for 2005 and will be funded from future revenue bonds and/or Sewer Utility cash reserves.

Legal Considerations: The Resolution has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council: 1) approve the project expenditures for 2005; 2) adopt the Resolution; and 3) authorize the necessary signatures.

Agenda Item No. 27

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1221

TO: Mayor and City Council

SUBJECT: Sanitary Sewer Mains for Future Development

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the project expenditure.

Background: This project is included in the ten-year Capital Improvement Program as sanitary sewer extensions to serve future developments, newly annexed areas, and to provide for the City's share of costs to construct new sanitary sewer mains to serve

existing areas that have no sewer service. The funds are used to plan, model, design, construct and/or relocate sanitary sewers for future growth.

Analysis: The Sewer Master Plan, prepared by Professional Engineering Consultants and Brown & Caldwell Engineering, indicates future needs to expand the sanitary sewer service area. This project is in support of the City of Wichita Sewer Master Plan.

Financial Considerations: Mains for Future Development (CIP S-5) has a budget of \$2,500,000 for 2005 and will be funded from future revenue bonds and/or Sewer Utility cash reserves.

Legal Considerations: The Resolution has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council: 1) approve the expenditures for 2005; 2) adopt the Resolution; and 3) authorize the necessary signatures.

Agenda Item No. 28

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1222

TO: Mayor and City Council

SUBJECT: Water Distribution Mains for Future Development

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the expenditure for future water mains.

Background: This project is included in the ten-year Capital Improvement Program to serve future developments and newly annexed areas. It provides for the City's share in funding the installation of new water mains. These mains serve as the backbone of the system and establish the current service area of the water distribution system.

Analysis: The Water Master Plan indicates the need to extend the water distribution system where future growth and development are occurring. This is primarily due to

growth outside of, or in addition to, the growth area of the City that was anticipated at the time the Water Master Plan was prepared. The projects are identified when a petition for water system extensions is received. The water utility then pays for links and oversizing of the water system in developments. Additionally, funds are used to design and relocate water mains for future Public Works' projects.

Financial Considerations: Unidentified Mains (CIP W-65) has a budget of \$2 million in 2005. It will be funded from future revenue bonds and/or Water Utility cash reserves.

Legal Considerations: The Resolution has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council: 1) approve the expenditures for 2005; 2) adopt the Resolution; 3) and authorize the necessary signatures.

Agenda Item No. 29

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1223

TO: Mayor and City Council

SUBJECT: Water Distribution Main Replacement

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the expenditure for water main replacement.

Background: This project is included in the ten-year Capital Improvement Program. It provides funding for the replacement of water lines that either leak frequently, or need to be replaced because they are too small to meet current demands. Specific lines to be replaced are identified on an ongoing basis by Public Works' engineers and the Water & Sewer Staff.

Analysis: Water distribution main replacement is essential for maintaining the water system infra-structure, decreasing the number of water main breaks, reducing water system maintenance costs and improving customer service.

Financial Considerations: Distribution Main Replacement (CIP W-67) has an adopted budget of \$4 million for 2005. A similar project, Mains for Future Development (CIP W-65) has an adopted budget of \$3 million. Staff proposes transferring \$1 million of budget authority from W-65 to W-67 to reflect current activity. The W-67 budget would then be \$5 million and the W-65 budget \$2 million, with no net impact to the CIP budget. Funding will come from future revenue bonds and/or Water Utility cash reserves.

Legal Considerations: The Resolution has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that City Council: 1) approve the expenditures for 2005; 2) adopt the Resolution; and 3) authorize the necessary signatures.

Agenda Item No. 30

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1224

TO: Mayor and City Council

SUBJECT: Cheney Watershed Protection - US Environmental
Protection Agency Grant

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Authorize City participation in the grant application.

Background: Cheney Reservoir is one of Wichita's major sources of water currently providing approximately 60 percent of Wichita's annual water supply. Since 1993 the City has been participating in a program to encourage the implementation of projects that will reduce pollution entering Cheney Reservoir. Participation has included the concept of the City assuming part of the cost-share necessary to allow landowners to implement "best management practices" in the watershed.

Analysis: The Cheney Watershed Improvements project has been one of the most successful projects of its kind in the nation, having received national awards. Over 2,300

projects have been completed in the watershed, and Staff believes the completed work has resulted in a reduction in taste and odor events in the City's drinking water and a significant reduction in sediment entering the reservoir.

Much of the credit for the success of the project can be attributed to the Citizens Management Committee (CMC), composed of people living and working in the watershed who have worked hard to convince their neighbors that these improvements are good for both them and the City. As part of their continuing effort to educate producers in the watershed about "best management practices," the CMC wants to submit a grant application to the Environmental Protection Agency for support for education efforts. The project will help watershed farmers develop and practice decision-making skills for nutrient management and protecting soil and water quality.

A three-tiered approach will provide:

- 1) a one-day workshop and watershed tour for a group of 40 watershed farmers
- 2) an in-depth series of workshops on nutrient management planning for 10 dairy farmers
- 3) a very intensive environmental training experience for a potential watershed leader

All training will connect the conditions of water quality in the watershed to the daily decision-making process on watershed farms. The workshops will emphasize management of fertilizers and animal manures, soil quality, the use of grass buffers, and other management practices. Select producers will participate in follow-up visits to farms to complete farm assessments, or written management plans.

The CMC has requested that the City become a partner in this grant application by sponsoring a bus tour of City water facilities for producers in the watershed. Estimated cost of the tour is \$1,000. Additional participants will be the Reno County Conservation District, the Natural Resources Conservation Service - USDA, Kansas State University Research and Extension, Kansas Department of Health and Environment, and the Kansas Rural Center. The number and quality of partners working on this project will provide a broad perspective and strong framework for scientifically sound education. The inclusion of two

nonprofit organizations and strong farmer leadership will underpin effective recruitment and outreach efforts in the project.

Financial Considerations: The amount cost of the education project is \$14,650 with EPA providing \$8,350 and the partners in the grant application providing \$6,300 of funds or services. The City's participation would be up to \$1,000. Funds for this effort are available in CIP W-500, which has allocated \$200,000 in 2004 for Cheney Watershed project.

Legal Considerations: City Council authorization is required to participate in grant applications of this nature.

Recommendations/Actions: It is recommended that City Council: 1) authorize participation in the grant application; 2) funding the tour of the City's water facilities; and 3) authorize the necessary signatures.

Agenda Item No. 31

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1225

TO: Mayor and City Council

SUBJECT: Cost-Share Agreement - Cheney Reservoir Watershed

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the Memorandum of Understanding with the Reno County Conservation District.

Background: Cheney Reservoir is a major water source for Wichita currently providing approximately 60 percent of the City's annual water supply. On August 24, 1993, City Council approved the concept of the City assuming part of the cost-share to allow landowners to implement "best management practices" in the watershed above the Reservoir. Since that time, City Council has approved annual agreements with the Cheney Watershed Citizens Management Committee and the Reno County Conservation District to help implement improvements in the watershed.

Analysis: Cheney Reservoir has two significant pollution problems: sedimentation and phosphates. Sedimentation washes into the reservoir from soil erosion which can reduce the life of the reservoir and high phosphate levels can lead to an increase in microscopic plant activity, such as algae, thus increasing taste and odor problems in the water.

The Reno County Conservation District has acquired funds from the Water Resources Cost-Share Program (WRCS) and the Non-Point Source Pollution Control Fund (NPS) to

help finance the installation of conservation practices that will reduce pollution entering the reservoir. Under these programs, the producers can install Best Management Practices that will reduce pollution from their land and apply for reimbursement for up to 70 percent of the cost of the improvements. The MOU will facilitate a means whereby the producer can receive up to 100 percent reimbursement by having the City of Wichita provide up to a 30 percent cost-share for the improvements. Producers will not be eligible for any costs that exceed the county average cost for those improvements.

While funds for the program are authorized for the Reno County Conservation District, administration of the funds will be through the Cheney Watershed Citizens Management Committee. The Committee, composed of landowners and producers in the watershed, administers the Watershed Management Plan and coordinates efforts to promote the installation of Best Management Practices. The agreement will help facilitate the creation of partnerships between the producers in the watershed and the City to reduce pollution entering Cheney Reservoir. Other counties in the watershed, Stafford, Pratt and Kingman, have agreed to participate. Projects completed in those counties will be submitted to the City through the Reno County Conservation District.

Alternatives: Several alternatives that the City could pursue in attempting to reduce or eliminate pollution in Cheney Reservoir are:

- 1) Participate in the program. The WRCS and NPS programs would provide 70 percent of the funds used to correct pollution problems in the basin, with the remaining 30 percent coming from the City.
- 2) Wait until pollution becomes more severe; however, the City would stand the risk of not having other funding sources to help in the cleanup of the drainage basin. Furthermore, customer dissatisfaction with taste and odor, or the cost of treating the above would have a detrimental impact.
- 3) Forego efforts to work in the basin and respond to the water quality in the reservoir. City Council has approved the use of powered activated carbon (PAC) and the construction of ozone equipment to help address taste and odor problems, but if conditions in the reservoir deteriorate, the cost of treatments will increase. These treatments, however, do not remove the sediment coming into the reservoir. To remove the sediment after it is in the reservoir, and thus extend its life, would require the sediment to be dredged from the reservoir, which is a costly and environmentally destructive.

Financial Considerations: The maximum WRCS cost-share available to a single producer in Reno County during fiscal year 2005 will be \$10,000 and limited to \$7,500 for the NPS Program. Calculation is based on the county average cost, or actual cost,

whichever is less. Reno County has WRCS funds of \$48,430 available in fiscal year 2005 while NPS has \$37,582.

Stafford County maximum for WRCS available to a single producer will be limited to \$5,000 and \$5,000 for the NPS Program. The total amount of WRCS funds available in 2005 will be \$38,162 and NPS will have funds available of \$22,941.

Pratt County maximum for WRCS available to a single producer will be limited to \$3,500 and \$2,200 for NPS. The total WRCS funds available in 2005 will be \$36,560 and NPS will have available \$20,554.

Kingman County maximum for WRCS available to a single producer will be limited to \$3,500 and \$10,000 for the NPS Program. The total amount of WRCS available in 2005 will be \$25,017 and NPS will have funds available of \$18,542.

Costs to the City shall not exceed \$44,450 for WRCS projects, nor \$29,885 for NPS projects for a total combined amount of \$74,335 in fiscal year 2005. CIP W-500, Cheney Watershed Protection Plan, has allocated \$200,000 in 2005 for this effort. Additional sources of funding include the EPA, the State of Kansas Water Plan and the USDA, all helping to diversify the cost of the improvement projects among funding sources.

Legal Considerations: The Law Department has approved the Memorandum and the Resolution as to form. Approval of this item by two-thirds majority of City Council is required.

Recommended Action: It is recommended that the City Council: 1) approve the MOU; 2) adopt the Resolution; and 3) authorize the necessary signatures.

Agenda Item No. 32

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1226

TO: Mayor and City Council

SUBJECT: Cheney Watershed Staff Position – Memorandum of Understanding

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the Memorandum of Understanding with the Cheney Lake Watershed, Inc. for a staff position.

Background: Cheney Reservoir is one of Wichita's major sources of water, currently providing approximately 60 percent of Wichita's annual water supply. Since 1993, the City has participated in a program to encourage the implementation of projects that will reduce pollution entering the reservoir. Participation includes the concept of the City assuming part of the cost-share necessary to allow landowners to implement Best Management Practices in the watershed. On October 13, 1998, City Council approved a Memorandum of Understanding (MOU) with the Citizens Management Committee, now incorporated as the Cheney Lake Watershed, Inc. to fund a public relations/education position to assist in the activities of the project.

Analysis: The Cheney Watershed Improvements project is one of the most successful projects of its kind in the nation, having received several national awards. Over 2,300 projects have been completed in the watershed. The work has resulted in a reduction in taste and odor events in the City's drinking water, plus a significant reduction in sediment entering the reservoir. Much credit for the success of the project can be attributed to the work of the Citizens Management Committee (CMC), composed of people living and working in the watershed who have worked hard to convince their neighbors that these improvements are good for both them and the City.

The person funded through this MOU assists the CMC in executing many public relations and education tasks. This staff position has been very successful in increasing interest in the watershed project, increasing the number of projects completed in the watershed, and consequently, improving the water quality in the reservoir.

Financial Considerations: The total cost for the position is \$37,914. The Kansas Department of Health and Environment has offered to provide \$13,814 (approx. 36 percent) towards this position through a grant from the U.S. Environmental Protection Agency, with the City providing \$24,100 (64 percent). The MOU also includes \$3,000 from the City to assist in paying other contractual expenses of the Cheney Lake Watershed, Inc. The remaining cost of the position would be obtained from a grant from the U.S. EPA. Funds are available in CIP W-500 (Cheney Watershed Protection Plan), that has \$200,000 allocated for this project in 2005.

Legal Considerations: The MOU has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the Memorandum of Understanding and authorize the necessary signatures.

AGENDA ITEM NO. 33

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1227

TO: Mayor and City Council Members

SUBJECT: Career Development Office Building Re-roof (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Project.

Background: Several areas of the roof of the Career Development Office Building are constant sources of chronic leaks. Located inside the State Office Building Garage, the current roof is 11 years old and is failing. City staff has recommended that the roof be replaced in order to maintain the structural integrity of the building and protect its contents.

Financial Considerations: The 2004 Capital Improvement Program, Project PB-350414, has \$55,000 budgeted for this work.

Legal Considerations: The Legal Department has approved the Resolution as to Form.

Recommendation/Action: It is recommended that the City Council adopt the Resolution, approve the project and authorize the necessary signatures.

Agenda Item #34

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1228

TO: Mayor and City Council Members

SUBJECT: Amendment to Agreement for Brooks Landfill Technical Services
(District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the amendment.

Background: In 1996, the City of Wichita completed a study of groundwater contamination originating in Brooks Landfill, and remedial measures were enacted in compliance with Kansas Department of Health and Environment (KDHE) regulations. The corrective measures included an air injection system at the edge of the landfill, to prevent contamination from leaving the landfill site. In addition, a groundwater extraction and treatment system was installed approximately one mile downgradient from Brooks, at the leading edge of the contamination plume.

The downstream system has been operational since 1997. This system pumps groundwater from the ground, treats it through a process of “air stripping” to remove contaminants, and discharges the treated water into the Arkansas River. Since installing this system, over 1.1 billion gallons of groundwater have been pumped, treated, and discharged into the river. A series of groundwater monitoring wells are also sampled frequently to monitor the extent and concentration of the contamination. Recent sampling results have shown the downstream contamination plume to be significantly reduced in concentration, and shifting slightly to the east.

As a result of decreased contamination levels, the City contracted Camp Dresser & McKee (CDM) in March, 2002, to provide technical services related to investigating possible modifications to the remediation system, with KDHE approval, and reducing the City’s operating costs.

The completed investigation and report has been submitted to KDHE. Because the contamination levels have naturally subsided, the report recommends deactivation of the downstream pumping and treatment system, and implementation of a process called “monitored natural attenuation” (MNA). This would enable the City to closely monitor the levels of contamination, and implement additional measures (such as resuming pumping and treatment) if concentrations should increase in the future. Upon approval by KDHE, this modification, along with groundwater sampling revisions will save the City approximately \$100,000 per year in operating expenses for the Brooks remediation program.

Analysis: KDHE has reviewed the initial report, and concurs with the recommendations to implement MNA in lieu of continued treatment of the groundwater. As the final step in authorizing this change, KDHE requires that the City submit a formal proposal which

evaluates the following: threat to human health; degradation of groundwater; degradation of surface water; threat to other potential receptor; time frame and cost; and property control .

CDM has been the City's consultant on the groundwater remediation program at Brooks Landfill, and has successfully worked with KDHE to reach this agreement on modifying the system. They are also very familiar with the KDHE requirements for these reports, as well as the groundwater sampling programs at Brooks.

The amended scope of work includes preparation of the formal proposal required by KDHE, as well as technical expertise to present the proposal to KDHE, or at other hearings, if needed.

Financial Considerations: The cost of these services is estimated to be \$10,000. Funds are available in the Landfill budget.

Legal Considerations: The Amendment has been reviewed and approved by the Department of Law.

Recommendation/Action: It is recommended that the City Council approve the amendment to the agreement with Camp Dresser and McGee, and authorize the Mayor to sign.

THIRD AMENDMENT TO AGREEMENT BETWEEN THE CITY OF WICHITA, KANSAS AND CAMP DRESSER & MCKEE INC. BROOKS LANDFILL PROJECT
This AMENDMENT made this ____ day of October 2004, between the City of Wichita, Kansas

(CITY), and Camp Dresser & McKee Inc. (CONSULTANT).

WITNESSETH:

WHEREAS, the parties entered into an Agreement for Professional Services dated March 1, 2002, the CITY wishes to conduct environmental engineering and consulting services to support the operation, maintenance, and regulatory compliance of the two groundwater remediation systems at Brooks Landfill, herein after called the "PROJECT"; and

WHEREAS, CONSULTANT has available and offers to provide personnel and engineering services necessary to accomplish the PROJECT work; and

WHEREAS, the Scope of Work has expanded beyond that stipulated in Exhibit B of the March 1, 2002 Agreement, the parties desire to amend the scope of work and total compensation of the Agreement.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

A. The CONSULTANT shall furnish professional services as set out in Exhibit B, which is attached hereto and incorporated herein by reference. The cost for the services outlined in this scope are based upon the unit rates presented in Exhibit C of this Amendment.

II. SUMMARY

A. PARAGRAPH IV.C is amended to provide for the additional scope of work set forth in Exhibit B of this Contract Amendment No. 3 by the additional sum of \$10,000.00. so that the not-to-exceed sum shall read \$133,660.00. Contract Amendment No. 3 supersedes the costs presented in the March 1, 2002 Agreement, the Amendment No. 1 contract dated February 20, 2003, and the Amendment No. 2 contract dated July 13, 2004.

EXCEPT to the extent specifically amended herein, all the terms and provisions of the original agreement remain in force and effect.

IN WITNESS WHEREOF, the CITY and the Consultant have executed this agreement as of the date first written above.

CITY OF WICHITA

By: _____ Carlos Mayans Mayor

SEAL:

ATTEST:

Karen Sublett City Clerk

Approved as to Form:

Gary E. Rebenstorf City Attorney

CAMP DRESSER & McKEE INC.

By: _____ Monte R. Markley Associate

CAMP DRESSER & McKEE INC. SCHEDULE OF HOURLY BILLING RATES
VALID THROUGH AUGUST 31, 2005

HOURLY

CATEGORIES RATES

PROFESSIONAL SERVICES:

PROFESSIONAL I \$65.00

PROFESSIONAL II \$75.00

PROF. III – TECH. ADVISOR \$85.00

SENIOR PROFESSIONAL \$100.00

PRINCIPAL \$125.00

PRINCIPAL/ASSOCIATE \$140.00

OFFICER \$180.00

PROFESSIONAL SUPPORT SERVICES

STAFF SUPPORT SERVICES \$55.00

SENIOR SUPPORT SERVICES \$65.00

FIELD SERVICES

PROFESSIONAL \$55.00

SENIOR PROFESSIONAL \$65.00

PROJECT SUPPORT SERVICES

PROJECT ADMINISTRATION \$45.00

SECRETARIAL SUPPORT \$20.00

All subconsultant expenses are subject to a minimum handling/administrative charge of 10%. Other direct costs will be billed at cost.

EXHIBIT B SCOPE OF SERVICES

City of Wichita Contract Amendment No.3 Brooks Landfill Geologic and Consulting Services

Purpose:

Activities described in this scope of services are intended to assist the City of Wichita toward reaching goals of completing the MNA proposal required by KDHE for downgradient plume remediation at the Brooks Landfill.

Scope of Services:

The geologic and consulting scope of services will include the following tasks:

Task 1 – MNA Proposal:

This task includes the preparation of the MNA proposal as requested by KDHE in their letter dated January 16, 2004. This proposal shall include, but is not limited to, addressing the necessary items for the proposal as outlined in the above-mentioned letter. CDM will provide the City and KDHE with two copies each of the proposal. The estimated cost to prepare and submit these reports is \$3,500.00.

Task 2 –Miscellaneous Services:

CDM will provide ongoing professional services as deemed necessary by the City. These services may include the following:

„ Assist City with regulatory negotiations and/or responses to the MNA proposal including meeting preparation or technical support. „ Presentation and/or workshops to city staff or council regarding the MNA proposal and the use of MNA as the method of downgradient remediation „ City support for unanticipated regulatory requirements
The City will provide written notice prior to commencing service. The estimated cost for this task is \$6,500.00.

Schedule

CDM anticipates the MNA proposal will be completed within 6 to 8 weeks after contract approval. Task 2 will be conducted on an as-needed basis and scheduling will be determined at that time.

Cost

The services outlined in this scope are based upon the unit rates presented in Exhibit C of this Amendment. The total not-to-exceed fee to perform these services is \$10,000.00.

Agenda Item No. 35

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1229

TO: Mayor and City Council

SUBJECT: Street Lighting Budget Adjustment - All Districts

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the budget transfers.

Background: Street lights provide public safety benefits throughout the City, along both residential and arterial roadways. The City contracts with Westar Energy for installation, maintenance and electricity to operate the street lighting system.

Analysis: The 2004 Street Lighting budget is \$2,852,850. The budget is established based on known and estimated costs, including the number of lights and potential costs to provide services in annexed and newly developed areas. In 2004, infrastructure costs to establish service in annexed areas has been higher than estimated, and development has occurred more quickly than anticipated. The increased costs have caused a budget shortfall in the Street Lighting budget.

Financial Considerations: It is estimated that transfers of up to \$60,000 (about 2% of the budget) will be needed to pay all 2004 bills. The transfers would occur within the Public Works Department budgets. The transfers would use line-item savings to pay the increased costs. The Street Lighting budget will be re-evaluated in 2005 to incorporate revised cost estimates based on annexation costs and development activity.

Legal Considerations: Budget transfers over \$10,000 require City Council approval.

Recommendations/Actions: It is recommended that the City Council approve the budget transfers.

Agenda Item No. 36

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1230

TO: Mayor and City Council Members

SUBJECT: Maple Street between Maize and 119th Street West (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the revised project budget.

Background: On June 27, 2000, the City Council approved amended funding to reconstruct Maple Street between Maize and 119th Street West. The project reconstructed Maple to four lanes, installing sidewalk on both sides of the street and landscaping the available right of way.

Analysis: Costs for construction have exceeded estimated amounts by less than \$30,000.

Financial Considerations: Project savings from the construction of the next mile of paving on Maple between 119th Street West to 135th Street West are available to fund the additional \$30,000 of General Obligation costs for the Maple, Maize to 119th Street West project.

Legal Considerations: The Law Department has approved the amending Ordinance as to legal form.

Recommendation/Action: It is recommended that the City Council authorize the transfer of funding, approve the revised project budget and place the amending Ordinance on First Reading.

Agenda Item # 38

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1231

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures
Districts I, III, IV

INITIATED BY: Office of Central Inspection

AGENDA: New Business

Recommendations: Adopt the resolutions.

Background: On October 12, 2004 a report was submitted with respect to the dangerous and unsafe conditions on the properties below. The Council adopted resolutions providing for a public hearing to be held on these condemnation actions at 9:30 a.m. or as soon thereafter, on December 14, 2004.

Analysis: On September 13, 2004, the Board of Code Standards and Appeals (BCSA) held a hearing on the following properties:

Property Address	Council District
a. 422 West Skinner	III
b. 1511 North Hydraulic (Garage)	I
c. 1452 North Estelle	I
d. 536 South All Hallows	IV

Detail information/analysis concerning these properties are included in the attachments.

Legal Considerations: Pursuant to State Statute, the Resolutions were duly published twice on October 14, 2004, and October 21, 2004. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of the described property.

Recommendations/Actions: It is recommended that the City Council close the public hearing, adopt the resolutions declaring the buildings dangerous and unsafe structures, and accept the BCSA recommended action to proceed with condemnation allowing 10 days to start demolition and 10 days to complete removal of the structures. Any extensions of time granted to repair the structures would be conditioned on the following: (1) All taxes have been paid to date, as of December 14, 2004; (2) the structures have been secured as of December 14, 2004 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of December 14, 2004 and will be so maintained during renovation.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolutions published once in the official city paper and advise the owner of these findings.

Agenda Item #39

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1232

TO: Mayor and City Council

SUBJECT: Public Hearing and Issuance of Industrial Revenue Bonds
(Cessna Aircraft Company) (District III & IV)

INITIATED BY: Department of Finance

AGENDA: New Business

RECOMMENDATION: Close the Public Hearing and place the Ordinance on first reading.

BACKGROUND: Since 1991, the City Council has approved Letters of Intent for Industrial Revenue Bonds totaling a not-to-exceed principal amount of \$1.1 billion to finance expansion and modernization of Cessna Aircraft Company facilities in Wichita. Along with the letters of intent, the Council approved a five-plus-five-year 100% ad valorem tax exemption for all Cessna property financed with bond proceeds. Since 1991, approximately \$843 million IRBs were issued to Cessna. The company is requesting the issuance of City of Wichita Industrial Revenue Bonds in an amount not-to-exceed \$51,800,000 million to finance its 2004 capital investments.

ANALYSIS: Bond proceeds are being utilized to finance expansion and upgrading of facilities located at the Cessna Wichita Facilities, including technology and manufacturing equipment to accommodate increased personnel and space required to develop and manufacture the four business jet aircraft produced in Wichita. Specific 2004 improvements at the Cessna facilities include renovations and upgrades to parts warehousing, aircraft completion, engineering, assembly and manufacturing facilities. Acquisition of manufacturing machinery and equipment is also being financed.

The uses of the 2004 bond proceeds are as follows:

Buildings and Improvements	\$ 2,457,725
Equipment	6,405,049
Tooling	42,922,306
Costs of Issuance	14,920
Total Cost of Project	\$ 51,800,000

The taxable Bonds will be privately placed with Cessna's parent company. Cessna Aircraft Company has complied with the Standard Conditions contained in the City's IRB Policy.

FINANCIAL CONSIDERATIONS: Cessna Aircraft Company agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. City Council has approved a five-plus-five-year 100% ad valorem tax exemption on bond-financed property. The purchase of bond-financed property will also be exempt from state and local sales tax.

LEGAL CONSIDERATIONS: Bond documents have been prepared by the City's bond counsel Hinkle Elkouri Law Firm, L.L.C. The City Attorney's Office will review and approve the final form of any bond documents prior to the issuance of any bonds.

In addition to authorizing the issuance of the Series 2004 Industrial Revenue Bonds, the bond ordinance also authorizes the release of property financed by Series XV, 1994 Bonds from the lien of the 1994 Bond Indenture and the conveyance of said property to Cessna upon receipt of certification by the Bond Trustee that no Series 1994 Bonds remain outstanding.

RECOMMENDATIONS/ACTIONS: It is recommended that City Council close the public hearing and approve first reading of the Bond Ordinance authorizing the execution and delivery of documents for the issuance of the 2004 Cessna Industrial Revenue Bonds in an amount not-to-exceed \$51,800,000, and the release and conveyance of 1994 Cessna bond-financed property, and authorize necessary signatures.

Agenda Item #40

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No.04-1233

TO: Mayor and City Council

SUBJECT: Public Hearing and Issuance of Industrial Revenue Bonds
(Bombardier Learjet) (Districts IV & V)

INITIATED BY: Finance Department

AGENDA: New Business

Recommendation: Place the ordinance on first reading and approve the bond documents for the issuance of Industrial Revenue Bonds.

Background: On September 10, 1996, the City Council approved a five-year Letter of Intent for Industrial Revenue Bonds in an amount not-to-exceed \$86 million, issued to Bombardier Learjet to finance expansion and modernization of its aircraft manufacturing plant located at Mid-Continent Airport in west Wichita. Council also approved a ten-year 100% ad valorem property tax exemption on all bond-financed property. On November 20, 2001, the City Council extended the Letter of Intent for an additional three-years until December 31, 2004. Under authority of the 1996 Letter of Intent, the City Council has authorized issuance of Industrial Revenue Bonds to Bombardier Learjet a total of approximately \$81 million in IRBs between 1996 and 2003. The company is requesting City Council to issue industrial revenue bonds in the amount not-to-exceed \$2,780,000 to finance its capital investments for the year 2004. In addition, Learjet requests a two-year extension of its 1996 Letter of Intent to continue to expand and upgrade its existing facilities.

Analysis: Proceeds from the sale of the 2004 bond issue will be used for the purpose of purchasing, acquiring, constructing, and equipping improvements and additions to existing facilities. Bond proceeds continue to be used to finance the expansion and upgrading of facilities accommodating increased personnel and space required to develop and produce all models of Bombardier's Learjet business jet aircraft.

Bond proceeds are estimated to be used as follows:

Real Property Improvements	\$1,470,923.97
Machinery and Equipment	1,308,987.95
Costs of Issuance	88.08
Total Cost of Project	\$2,780,000.00

The law firm of Hinkle Elkouri, L.L.C. serves as bond counsel in the transaction. Learjet Inc. will purchase the bonds, and as a result bonds will not be offered to the public. Bombardier Learjet has complied with the Standard Conditions contained in the City's IRB Policy.

Financial Considerations: Bombardier Learjet agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. The City Council has approved a 100% tax abatement of ad valorem property taxes on the expansion project. Bond-financed purchases will also be exempt from state and local sales tax.

Legal Considerations: Bond documents have been prepared by bond counsel for the project. The City Attorney's Office will review and approve the final form of bond documents prior to the issuance of any bonds.

Recommendations/Actions: It is recommended that City Council close the public hearing, approve the extension of the 1996 Letter of Intent to Learjet, Inc. for a term of two-years, and approve first reading of the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Industrial Revenue Bonds in an amount not-to-exceed \$2,780,000, and authorize necessary signatures.

Agenda Item # 41

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1234

TO: Mayor and City Council

SUBJECT: Public Hearing and Issuance of Industrial Revenue Bonds for Ryan
International Airlines (District VI)

INITIATED BY: Finance Department

AGENDA: New Business

Recommendation: Close the Public Hearing and place the Ordinance on first reading.

Background: On December 8, 1998, the City Council approved the issuance of Industrial Revenue Bonds (IRBs) in the amount of \$2.7 million to Ryan International. The bonds were used to finance the renovation of an existing building at 266 N. Main in downtown Wichita to serve as Ryan's corporate headquarters. A ten-year 100% property tax exemption was granted on the improvements. On October 12, 2004, City Council approved a one-year Letter of Intent to issue IRBs in an amount not-to-exceed \$3,500,000 to Rubloff Wichita, L.L.C. Bond proceeds were used for the acquisition of the land and building for Ryan International Airlines' corporate headquarters in downtown Wichita. The company is now requesting City Council to issue Industrial Revenue Bonds in the amount not-to-exceed \$3,500,000.

Analysis: Ryan International is a certified air carrier licensed by the Federal Aviation Administration and the U.S. Department of Transportation. It operates passenger and freight service aircraft on a contractual basis for a variety of clients worldwide, including airlines, charter services, and corporations. It currently operates a fleet of twenty-two aircraft consisting of Boeing 727s, 737s, 757s, Douglas MD 80's and Airbus A-320s.

Ryan has major bases in Chicago, Minneapolis, Milwaukee, Atlantic City, Detroit, Dallas, Cleveland and Oakland.

Ryan International was purchased earlier this year by individuals associated with Rubloff Development Group, Inc., a diversified company located in Rockford, Illinois. Rubloff is a nationwide developer and owner of commercial real estate, including the mall in Hutchinson. In addition to other enterprises, Rubloff principals also owned a charter airline company which was operated contractually by Ryan. The Rubloff charter aircraft service is now merged with Ryan International and plans for the company include starting a scheduled airline service from major markets to resort destinations. In addition to leasing aircraft, as has been Ryan's past practice, Ryan now owns a fleet of jetliners and plans call for the acquisition of additional aircraft.

The proceeds of the proposed \$3.5 million bond issue were used to purchase a Class A corporation headquarters for Ryan International Airlines, Inc. The building is currently owned by Ryan Properties, L.C. which is owned by Ron and Renee Ryan, subject to an IRB lease, and subleased to Ryan International Airlines, Inc. The building has 54,000 s.f. of office and common space located on two floors, and an enclosed parking for 60 cars underneath the building.

Ryan International currently employs 150 highly-paid skilled employees into the downtown core area. As a result of the acquisition and merger, Rubloff Wichita plans to add 100 new employees to Ryan's Wichita workforce within five years. Rubloff Wichita has agreed to maintain a current EEO/AA plan on file with the City.

The firm Hinkle Elkouri L.L.C. serves as bond counsel for the transaction. Rubloff Wichita L.L.C. or an affiliate will purchase the bonds as a private placement and not reoffered them for public sale. The Company agrees to comply with the City's requirements contained in the Standard Letter of Intent Conditions.

Financial Considerations: The Company agrees to pay all costs of issuing the bonds and the City's \$2,500 annual IRB administrative fee for the term of the bonds. City Council approved a 100% tax abatement on the bond-financed property for an initial five-year period plus an additional five years following City Council review.

The estimated first year's taxes on Rubloff Wichita's proposed \$3,500,000 expansion would be \$99,425, on real property, based on the 2003 mill levy. Using the allowable tax exemption of 100 percent, the City would be exempting (for the first year) \$99,425 of new taxes from the real property tax rolls. The tax exemption would be shared among the taxing entities as follows: City - \$27,916; County/State - \$26,527; and USD 259 - \$44,982.

Legal Considerations: Bond documents needed for the issuance of bonds will be prepared by bond counsel for the project. The City Attorney's Office will review and approve the form of bond documents prior to the issuance of any bonds.

Recommendations/Action: It is recommended that the City Council close the public hearing and approve first reading of the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Industrial Revenue Bonds for Rubloff Wichita, L.L.C. in an amount not-to-exceed \$3,500,000, and authorize the necessary signatures.

Agenda Item #42

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1235

TO: Mayor and City Council

SUBJECT: Public Hearing and Issuance of Industrial Revenue Bonds (The Coleman Company, Inc.) (District I)

INITIATED BY: Department of Finance

AGENDA: New Business

Recommendation: Approve first reading of the Ordinance and Bond Documents.

Background: Between 1993 and 2002, the City Council has approved Letters of Intent to issue Industrial Revenue Bonds (IRBs) up to \$135 million to the Coleman Company, Inc. and has approved the issuance of \$121.8 million. Bonds were issued to finance the construction of a new corporate headquarters, the expansion of existing manufacturing facilities and the purchase of additional machinery and equipment for its manufacturing facilities in Wichita and Maize. In addition, the City Council also approved a 100% five-plus-five-year ad valorem tax exemption on all bond-financed property.

On November 16, 2004, City Council approved a new Letter of Intent for a term ending December 31, 2007, in an amount not-to-exceed \$35,000,000. The bond proceeds will be used for the redesign of factory space and for the purchase of additional manufacturing equipment, primarily machinery, tooling and technological equipment at the existing Wichita and Maize facilities. The company is now requesting the issuance of Industrial Revenue Bonds in an amount not-to-exceed \$19,500,000.

In addition, pursuant to an existing Interlocal Cooperation Agreement between the City of Maize and the City of Wichita, the City of Wichita has the authority to issue Industrial Revenue Bonds in the amount not-to-exceed \$7.1 million to finance 2004 capital expenditures at Coleman's facility in Maize.

Analysis: The Coleman Company, Inc. is engaged in the manufacturing and distribution of outdoor recreational products. The Company's principal products include a comprehensive line of pressurized lighting, cooling and heating appliances for camping and outdoor recreational use (such as Coleman lanterns and stoves), fuel-related products, including disposable propane-filled cylinders, a broad range of insulated food and beverage containers, portable electric lights, and other products for recreational use and do-it-yourself markets.

In early 2002, the Coleman Company began a series of steps to reestablish its worldwide headquarters in Wichita. The Wichita-based management team assumed direction of international operations in January 2002. Transition of corporate functions from Sunbeam's Florida office to Coleman's Wichita office is underway and will continue over the next few years. The Coleman Company employs 974 people at its Wichita facilities. The average salary for full time employees is \$44,880. Under current plans, the Company does not anticipate increases in employment

The uses of bond proceeds are as follows:

Wichita Facilities

Building Improvements	\$3,500,000
Manufacturing Equipment	31,500,000
Total	35,000,000

Maize Facility

Manufacturing Equipment	7,151,000
Total	7,151,000

Total Cost of Projects \$42,151,000

The City's bond counsel firm Hinkle Elkouri Law Firm, L.L.C. will serve as bond counsel in the IRB transaction. The Coleman Company will purchase the bonds, and as a result the bonds will not be offered to the public. The Coleman Company has complied with the Standard Conditions contained in the City's IRB Policy.

Financial Considerations: The Coleman Company, Inc. agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. Under the City's new Economic Development Incentive Policy, City Council approved of a 100% five-plus-five-year tax exemption on property purchased with bond proceeds, based solely on capital investment. In addition, bond-financed purchases are exempt for state and local sales tax.

Legal Considerations: Bond documents have been prepared by bond counsel. The City Attorney's Office will review and approve the final form of bond documents prior to the issuance of any bonds.

In addition to authorizing the issuance of the Series 2004 Industrial Revenue Bonds, the bond ordinance also authorizes the release of property financed by Series VIII, 1993 Bonds from the lien of the 1993 Bond Indenture and the conveyance of said property to Coleman upon receipt of certification by the Bond Trustee that no Series 1993 Bonds remain outstanding.

Recommendations/Actions: It is recommended that the City Council close the public hearing and approve first reading of the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Industrial Revenue Bonds in an amount not-to-exceed \$19,500,000, and the release and conveyance of 1993 Coleman bond-financed property, and authorize the necessary signatures.

Agenda Item No. 43

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1236

TO: Mayor and City Council Members

SUBJECT: Sanitary sewer to serve an area on the west side of Armstrong,
north of 35th Street North (District VI)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendations: Approve the project.

Background: On July 12, 2004, and August 2, 2004, District VI Advisory Board considered a petition to extend a sanitary sewer to serve two tracts on the west side of Armstrong, north of 35th Street North. The board voted 7-0 to recommend that the project be enlarged to include additional properties. Council Member Fearey and the City Engineering Staff subsequently met with affected property owners to develop a proposal that will serve the best interests of the neighborhood.

Analysis: The proposed project will serve five homes that are currently on private septic tank systems. The Environmental Health Department reports that some of the septic tank systems are failing. A sixth home is included in the improvement district because it is

connected to a City lateral sewer, but has not been included in a previous improvement district.

Financial Considerations: The estimated project cost is \$60,000, with the total assessed to the improvement district. The method of assessment is fractional basis. The estimated assessment to individual properties is \$10,000 per lot.

Legal Considerations: State Statutes provide the City Council authority to order in a sanitary sewer project.

Recommendation/Actions: It is recommended that the City Council approve the project and adopt the resolution.

Agenda Item # 44

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1237

TO: Mayor and City Council Members

SUBJECT: International Fire Code – Adoption of the 2000 Edition, Repealing Chapter 15.01 of the City Code, and Ordinance No. 46-255.

INITIATED BY: Fire Department

AGENDA: New Business

Recommendation: Place the ordinance on first reading.

Background: On October 19, 2004 the City Council approved the adoption of the 2000 Edition of the International Fire Code. It was later discovered that errors were made in the form of the ordinance as presented to the Council.

Analysis: The proposed ordinance amendment corrects the errors made in the form of Ordinance No. 46-255, which was approved by the Council in October. No substantive changes to the body of the ordinance already approved are contained the proposed amendment.

Financial Consideration: None.

Legal Consideration: The ordinance has been drafted and approved as to form by the Law Department.

Recommendation/Actions: Place the ordinance on first reading.

Agenda Item # 45

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1238

TO: Mayor and City Council Members

SUBJECT: Funeral Escort Licensing – Amending Section 3.74.020 of the City Code, pertaining to the licensing of funeral escort services.

INITIATED BY: City Manager's Office

AGENDA: New Business

Recommendation: Place the ordinance on first reading.

Background: On July 20, 2004 the Council approved amendments to the City's ordinance on licensing funeral escort services. It was later discovered that in Section 3.74.020, an error was made regarding the licensing process, in that persons desiring to be licensed to operate a funeral escort service were directed to submit their license applications to the city clerk's office, on a form containing information required by that same office. The correct location for licensing activity is the city treasurer's office, and that office also is responsible for preparing forms for license applications.

Analysis: The proposed ordinance amends Section 3.74.020 of the City Code to correct the error in the earlier amendment and requires that applicants for a funeral escort service license should be submitted to the city treasurer's office and shall be on a form and contain information required by that same office.

Financial Consideration: None.

Legal Consideration: The ordinance has been drafted and approved as to form by the Law Department.

Recommendation/Actions: Place the ordinance on first reading.

Agenda Item No. 46

(Pulled November 16, 2004)

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1239

TO: Mayor and City Council

SUBJECT: Funding Support for the Arts

INITIATED BY: Division of Arts and Culture

AGENDA: New Business

Recommendation: Adopt the Resolution and Approve the Arts Task Force Recommendations.

Background: In 1994, the City Council and the Arts Council commissioned an independent study of the impact and potential of local arts and culture, which resulted in the approval of the Wichita Community Cultural Plan. One of the goals of the Cultural Plan was to establish a funding mechanism that would encourage cultural resources to become active partners.

On March 16, 2004, the City Council approved the formation of an Arts Task Force. The Arts Task Force was asked to accomplish the following and return with their recommendations:

- Study current funding support for the arts;
- Determine an equitable process for the City Council to evaluate requests for funding;
- Develop public and private funding options and;

- Designate the appropriate department for which the Division of Arts and Culture should reside.

Analysis: The Task Force has determined a fair and equitable process that will protect the City's current \$75 million investment in the arts while encouraging the development of other existing and emerging organizations. The Task Force believes that they City must protect its current investments in the organizations that have become an integral part of the community's culture. This investment includes the City's ownership of various properties and entities within the community including the Wichita Art Museum, Old Cowtown, Botanica, and many others. Through historical agreements, the City has made substantial investments in these facilities to purchase, promote and maintain them. The Task Force believes that the current levels of funding and in-kind support continue to protect the \$75 million investment the City of Wichita has made to the arts. It is imperative that the City continues to promote and encourage growth of the arts as a vehicle for cultural tourism rather than make further reductions to the arts or simply maintain the status quo. A resolution establishing a funding formula needs to be approved/adopted for the arts and cultural community.

Financial Considerations: The process for performance-based criteria developed by the Arts Task Force creates an equitable and fiscally responsible method for distributing funds to arts organizations. A funding formula has been established that would dedicate a portion of the mill levy, at a level approximating the amount that would be raised in a year by .76 mills, with the intent of allocating the funds to support arts and cultural organizations and their facilities.

Legal Considerations: Law Department has prepared and approved the form of the proposed policy resolution.

Recommendations/Actions: It is recommended that the City Council approve/adopt the Resolution.

Arts Task Force

Recommendations for Process
And
Funding Options for the Arts
In Wichita, KS

Prepared June 2004
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Arts Task Force Report:
Procedure and Funding Options for Wichita, KS

Introduction

On March 16, 2004 the Wichita City Council approved the formation of an Arts Task Force. The Arts Task Force was asked to accomplish the following and return with their recommendations:

- Study current funding support for the arts;
- Determine an equitable process for the City Council to evaluate requests for funding;
- Develop public and private funding options; and
- Designate the appropriate department for which the Division of Arts and Culture should reside.

The Arts Task Force held working sessions on April 13, April 27, May 10, May 21 and May 24, 2004, which were open to the public. In addition, the Task Force held three public hearings or “listening” sessions at CityArts on May 4, 11, and 18, 2004. These listening sessions were designed to give local arts organizations and the public an opportunity to express their views on a process, criteria and funding options.

Representatives from approximately 20 organizations and several arts advocates responded to the listening sessions.

Randy Cohen, Vice President of Research and Information for the Americans For The Arts organization in Washington D.C., provided the Task Force members and the general public with valuable information pertaining to funding options being used in the 50 largest U.S. cities.

Based on group discussions, input from those attending the public hearings and task force meetings and information provided by national reports including Research Atlanta, the Scientific and Cultural Facilities District (SCFD) of Denver, CO and the Americans For The Arts in Washington, D.C., the Arts Task Force has developed recommendations to enhance arts and culture in our community.

Suggested Process For Review of Funding Applications

The Task Force has determined a fair and equitable process that will protect the City's current \$75 million investment in the arts while encouraging the development of other existing and emerging organizations is needed. It believes that the city must protect its current investments in the organizations that have become an integral part of our community's culture. This investment includes its ownership of various properties and entities within the community including the Wichita Art Museum, Old Cowtown, Botanica, Century II, CityArts, and many others. Through historical agreements, the City has made substantial investments in these and other facilities to purchase, promote and maintain them.

However, the Task Force recommends that the organizations currently receiving funding must also adhere to the recommended process. The Arts Task Force respectfully submits this strategic overview of a process with the understanding that if the City Council approves this process, details of implementation will then be determined.

The Process

All organizations wishing to receive funding – including those organizations currently receiving funding from the City – must submit an application for funding. That application will be reviewed by a subcommittee of the Arts Council, made up of a diverse group of people representing government, business, community, philanthropic organizations, education, the arts and individuals – all with knowledge of or interest in the arts. The Arts Council subcommittee will then make funding recommendations to the City Council members, who will ultimately determine the funding allocations.

The following criteria will be used in reviewing applications for funding:

1. Definition of an arts & cultural organization: “An arts and cultural organization should provide for the enlightenment and entertainment of the public through the production, exhibition, advancement, or preservation of art, literature, music, theater, dance, zoology, science, botany, natural history or cultural history.”

2. A tiered system for applying organizations (specific percentage of allocation to be determined)

- Tier I - existing organizations currently receiving City funds or in-kind services from the City of Wichita's general fund. These organizations are Wichita Art Museum, Botanica, Cowtown, Mid-American Indian Center, Sports Hall of Fame, Sister Cities, Music Theatre of Wichita, Kansas African American Museum, and Wichita Sedgwick County Historical Museum.
- Tier II – established and emerging organizations with annual operating budgets of \$500,000 or more.
- Tier III – established or emerging organizations with annual operating budgets less than \$500,000.

3. Existing & emerging organizations must comply with the following criteria to apply for funding:

- o An appropriate financial plan
- o Tax exempt status
- o A mission that does not exclude any groups
- o A demonstrated record of producing and/or presenting arts (where applicable)

4. Priority of fund allocation for arts & cultural organizations should be (in the order of priority):

- o Operations
- o Programming
- o Capital projects

5. Formation of Review Committee

- o Shall be created as a separate committee of the Arts Council
- o Possess broad based knowledge of the arts
- o Are odd in number
- o Should include members of the government, business, community, philanthropic organizations, education, the arts and individuals – all with knowledge of or interest in the arts
- o Represent diverse cultural groups
- o Have term limits
- o Declare conflicts of interest
- o Include city staff for financial and arts related administration (non-voting, advisory only)

6. Evaluation of applications by the Review Committee will use the following for consideration for each applying organization:

- o Financial accountability
- o Sustainability
- o History of quality programs and services
- o Record of successful strategic planning
- o Commitment to obtain other sources of revenue, including private contributions
- o Intellectual and aesthetic quality
- o Contribution to the Wichita community at large
- o Diversity of programming and mission
- o Professional accreditation within the tier (where applicable)
- o Cultural diversity
- o Partnerships between organizations

7. Performance measures to be submitted by applicant for evaluation by the Review Committee include:

- o History of previous grants and the goals of current application
- o Financial accountability and stability of organization

- o Ability to submit reports in a timely manner
- o Budget history
- o Attendance
- o Economic impact/Return on Investment

8. Application review process should:

- o Be an open, public process
- o Be based on an equitable point system
- o Allow organizations to make short presentations to the Review Committee
- o Include staff review to address financial documentation and compliance

9. Evaluation of City funding received by organizations could include:

- o Site visits
- o Written reports and financial documentation from organizations receiving funding
- o Measurable performance documentation

Analysis of Funding Sources

The Task Force believes that the current levels of funding and in-kind support continue to protect the \$75 million investment the City of Wichita has made to the arts. It is imperative that the City of Wichita continues to promote and encourage growth of the arts as a vehicle for cultural tourism rather than make further reductions to the arts or simply maintain the status quo.

One way to accomplish this is to provide a dedicated funding source for arts and culture in our community. According to a study by Research Atlanta, the question of what public interest will be served by an earmarked tax for the arts needs to be addressed. There are a number of reasons why public support of the arts, beyond what the private sector alone can provide, is justified:

- Opportunities to share in the cultural life of Wichita without public support denies individuals with low income the same opportunities as those individuals who have the benefit of family upbringing, schooling, and finances that enable them to fully partake of cultural offerings.
- Quality of life is enhanced when citizens are allowed the opportunity to actually participate in cultural activities
- Participation in the arts actually builds invisible ties that bind our local society together through understanding of cultural diversity and socio-economic differences
- Residents' benefit from a culturally active city by attracting new businesses and residents who in turn add to the cultural and economic life of our community resulting in continued growth

Before the task force determined its recommendations for funding, it first studied how other communities are funding arts and culture. The following is a synopsis of funding opportunities currently being utilized in other cities:

What are other communities doing?

Mil Levy

Currently, the entire mil levy is deposited into the general fund. Dedicating a portion of this money would take the arts investment out of the general fund and put it into a dedicated funding source for arts in our community. The advantage of dedicating a portion of the mil levy would include stable growth in arts funding as property values increase. Twelve of the 50 largest U.S. cities use this tax to enhance arts and culture. Among the cities currently using a mil levy tax are Austin, Kansas City, Charlotte, and San Francisco. The disadvantage to using the mil levy to fund the arts would be that only property owners would be paying for the arts.

Guest Taxes

Guest taxes are dedicated for the arts in San Francisco, Houston, St. Louis, and Columbus. Of the 50 largest cities in the U.S., 22 of those cities use this tax to support the arts. It is collected for the most part from visitors to our area and is viewed as having little impact on a Wichita resident's annual income. The major drawback to funding the arts through this venue is the instability of the guest tax and its dependence on tourists to Wichita as well as the national economy as a whole. However, at this time, a 1% increase in the guest tax would generate about \$650,000.

Retail Sales Tax

Dedicated funding for the arts has been implemented using tax bases where the city or county has some scope for setting the tax rates. For example, the use of dedicated retail sales tax for the arts has been implemented in Denver, Salt Lake City, St. Paul, Pittsburgh, and Austin. Denver's plan is perhaps best known; the Scientific and Cultural Facilities District (SCFD) levies a one-tenth of one percent sales tax over seven counties of Metropolitan Denver resulting in \$30 million distributed by the SCFD on an annual basis. A one-tenth of one percent increase in our local sales tax would only generate about \$40,000.

Legislation would be required to increase the retail sales tax. Our citizens pay the retail sales taxes; therefore, it would be difficult to garner local support. Further, the Task Force does not recommend a tax increase. However, the City Council could reallocate the current retail sales tax being collected. The advantage of allocating a percentage of the existing tax would include stable growth with few fluctuations.

Workplace Giving

Workplace giving campaigns are an efficient and effective means of soliciting funds through donations made by individuals through their place of employment. This type of giving began in 1949 when civic leaders in Cincinnati and Louisville determined that community wide campaigns, loosely based on the United Way model, could raise substantially more money to provide ongoing operating support to their major arts institutions.

Workplace giving programs differ significantly from traditional appeals approach. Instead of a \$100 donation request, for example, the gift opportunity is presented as a periodic contribution of \$2 a week, which translates into a \$100 annual gift. Because the gifts are made in increments, the total gift is more manageable and affordable. The payroll deduction approach allows all levels of employees a choice in giving. Most programs place the funds in an unrestricted pool to support grant programs. However some communities are offering donors the option of designating their gift to an arts organization of their choice. This is a program that needs further exploration by the task force or the Arts Council.

Food & Beverage Tax

This is a relatively new source of funding revenue for the arts and would be similar to the guest tax. However, unlike the guest tax which is primarily dependent on visitors to Wichita, the food and beverage tax would likely share equally between local residents and visitors to the area. Implementation as well as the possible revenue generated would need to be studied further as there is no basis at this time on which to compile those figures or the amount that could be generated by this type of tax. Stability of this funding source would also need to be considered. During tougher economic time periods, fewer residents dine out or entertain in restaurants.

Private Funding

The Task Force could not study public funding without also looking at funding from the private sector. Discussion among the directors of various local organizations support the findings of the Americans For The Arts research that shows national and state funding declining while private funding remains flat. This results in application for private funding becoming increasingly more competitive. However, the Task Force recommends organizations match City funding with funds from the private sector and exploration of private sector funding continue. Should a source of funds be identified, the Task Force recommends making those funds available to existing and emerging organizations.

Arts Task Force Recommendations

The Arts Task Force makes the following recommendations to the Wichita City Council:

- Appoint the Arts Council to create a diverse committee to review requests for funding based on the outlined process and criteria and make funding recommendations to the City Council during the City of Wichita's annual budget process;
- Protect the City's current investment by continuing funding at its existing level or higher, with the understanding that all organizations receiving funding will also follow the new process;
- Must increase City funding for the arts from its current level:
 - o Explore increasing the guest tax;
 - o Increase the allocation by 15% initially, and there after to incrementally keep pace with inflation;
 - o Explore the possibility of a user tax, such as a food & beverage tax or a ticket tax;
 - o Ask the Arts Council to explore a workplace giving program.

· Designate the Division of Arts & Culture to reside under the management of the City Manager's office as a way to elevate the perception and visibility of the arts in our community.

Agenda Item #47

**City of Wichita
City Council Meeting
December 16, 2003**

Agenda Report No. 04-1240

TO: City Council

SUBJECT: Grants Review Committee Appointments

INITIATED BY: Finance Department

AGENDA: New Business

Recommendation: Select the large business representative and approve new and carryover appointments.

Background: On March 28, 2000, the City Council approved the change in composition of the Grants Review Committee due to the abolishment of the Human Services Advisory Board and the Citizen Participation Organization. The newly established Grants Review Committee is now comprised of twelve (12) members from the following areas: 4-District Advisory Board; 1-United Way; 1-Sedgwick County; 1-USD #259; 2-Wichita Independent Neighborhood Association; 1-Wichita State University; 1-large business and 1-small business.

Analysis: The Grants Review Committee reviews the funding applications, holds one public hearing/applicant presentation and makes funding recommendations to the City Council.

The City Council is requested to select one large business representative and approve the new and carryover appointments to the Grants Review Committee. A list of the proposed Grants Review Committee members and two large business nominees are attached. In the event one of the nominees is unable to serve, it is requested the City Council authorize the City Manager to appoint a replacement.

Legal Considerations: The City has completed the required actions and the Council

may make the appointments to the Grants Review Committee.

Recommendation/Action: It is requested for the City Council to select one large business representative and approve the new and carryover appointments to the Grants Review Committee.

2004 GRANTS REVIEW COMMITTEE NOMINEE LIST

Recommended Action:

Select One (1) Large Business Nominee

	<u>Large Business (1)</u>	
James Barber Via Christi Foundation	Carryover	Janeen K. Smalley INTRUST Bank
		New

Recommended Action:

Approve Appointments

<u>Small Business (1)</u>		<u>Wichita State University (1)</u>	
Cathy Feemster	Carryover	Eric Sexton	Carryover
<u>District Advisory Boards (4)</u>		<u>Sedgwick County (1)</u>	
I Debby Moore	New	Sherdeill Breathett	Carryover
III Bill Ward	Carryover	<u>United Way (1)</u>	
		Patrick J. Hanrahan	Carryover
IV Jim Benton	Carryover	<u>Wichita Independent Neighborhoods (2)</u>	
		James Thompson	Carryover
VI Jaya Escobar	Carrover	David L Pendergraft	Carryover
<u>USD #259 (1)</u>			
Terry Behrendt	Carryover		

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Agenda Item No. 48

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1241

TO: Mayor and City Council Members

SUBJECT: Maintenance Initiative (All)

INITIATED BY: Department of Park and Recreation

AGENDA: New Business

Recommendation: Approve the Maintenance Initiative investment plan and defer the 2004 Maintenance Initiative contingency budget appropriation until 2005.

Background: The Park and Recreation Department budget includes a Maintenance Initiative contingency budget of \$161,400 for 2004 Revised and \$164,160 for 2005 Adopted Budgets, respectively. This contingency budget was established for the Park and Recreation Department enhancements as a result of workers compensation savings generated by shifting seasonal staffing to a contract temporary service provider. The Maintenance Initiative plan has been completed. However, the contingency budget requires City Council authorization prior to expenditure.

Analysis: The Park and Recreation Department staff, with input and review by the Finance

Department staff, has developed the attached Maintenance Initiative plan. The Maintenance Initiative plan addresses the need of additional resources to protect capital investments in newly developed parks, medians and right-of-way projects. The plan adds three new full-time positions and two seasonal contract employees, along with the crucial vehicle and equipment needed to support the investment in four targeted areas:

1. Irrigation systems
2. Downtown landscapes
3. Riverside Park system
4. Pathways

Financial Considerations: The plan identifies expenditures within the adopted budget. The capital outlay of one new vehicle and several grounds maintenance units are targeted

for purchase in 2004, but will require shifting to the 2005 budget to allow time for development of specifications and advertisement for bid.

Legal Considerations: The Contingency budget requires City Council approval prior to expenditure.

Recommendation/Action: Approve the Maintenance Initiative plan and the necessary budget adjustments to carry over the 2004 appropriations to 2005 for capital outlay expenditures and authorize new positions for 2005 as identified.

Agenda Report No. 04-1241
Wichita Park and Recreation **2004 & 2005**

<h2 style="margin: 0;">Maintenance Initiative</h2>

Plan: Target investment for the purchase of one new vehicle and several key pieces of equipment in 2004 that complement the personnel increases of three full time and two seasonal employees in 2005 and subsequent years. These additional resources will help to sustain maintenance rotations and protect the investment in the additional 201 acres of newly developed and acquired Parks and landscaped right-of-ways.

Investment in additional park and open space acreage and in landscape improvements along our right-of-ways has been aggressive in the past years with new project design, development and construction anticipated in the coming years. Operational budget is required to protect the investment and provide routine grounds maintenance care. The attached spreadsheet identifies new projects from 2003-2005 that will require additional resources for routine care. Some of these are newly acquired areas such as Kellogg expansion, Old Town Plaza, Alford and Evergreen Branch Libraries and Leon Robinson Park. There are other areas that have undergone extensive new development such as sites like Central Riverside Park, West Douglas Street, and Museum Boulevard. The addition of combined turf and shrub/groundcover bed areas totals 201 acres for this three-year period.

The tables below summarize the investment strategy for the purchase of equipment, one additional vehicle, and three new full time and two seasonal personnel along with some budget for supplies, tools and testing equipment. This is targeted at staffing and equipping an "Irrigation Crew" for maintaining the extensive and complex irrigation systems (see attached spreadsheet), downtown parks and landscapes around public facilities, the \$5 million investment in the Riverside Park System, and pathways and general landscaping issues system wide.

Specific investments are outlined as follows:

Irrigation Crew *Personnel* - Irrigation Technician, Gardening Supervisor II, and one seasonal MEO; *Vehicles and Equipment* – Pick-up truck, Compact utility loader and trailer, *Commodities*– approximately \$2,000 in start-up for tools and testing equipment and then \$1,000 annually for replacements and new technology

Downtown Landscaping *Equipment* – replacement of two older riding mower units which are not part of fleet with 72” front deck mowers, replacement of two push mowers with one 48” hydro walk behind mower, and two new trailers for transport of equipment, tools and supplies that are essential for maintenance in response to the loss of the downtown maintenance facility at 616 S. Wichita and the relocation of the 1245 S. McLean maintenance facility.

Riverside Park System *Personnel* – Gardening Supervisor I and one seasonal MEO; *Equipment* – 72” front deck mower; *Commodities* - \$2,000 annually for replacement shrubs, seed, sod, fertilizer, chemicals, and irrigation repair parts

Pathways and General Landscapes *Equipment* – Skid steer loader with attachments and trailer; *Commodities* – up to \$5,000 to \$6,000 annually for chemicals and seed for reduced weeds and improved turf

The attached worksheet gives a more detailed look at budget assumptions for personnel, equipment, and supplies.

This modest increase in resources for the maintenance of our parks and right-of-ways must be coupled with addressing the backlog of fleet replacement of vehicles and equipment for the Forestry and Maintenance Division as detailed on the attached spreadsheets. Fleet charges have been budgeted and transferred to the Public Works Department, but the capital replacements continue to be shifted out to the future. In addition there are several “rent code 7” units, see attached spreadsheet, that must be shifted backed into the fleet replacement schedule as these units are integral to operations. If the replacement of vehicles and equipment continues to be postponed, then performance will suffer as personnel struggle without the support vehicles and equipment required to complete the work assignments.

Without the additional resources we can expect a decline or even failure in the visual appearance of our landscape investments. Irrigation systems will be abandoned and failed plantings eliminated with inadequate resources to address the maintenance expectations of newly developed and acquired landscape improvements.

If projected expenditures for personnel are significantly lower as a result of single insurance coverage versus family plan, and capital equipment cost and fleet charges come in lower, then investment could be shifted to technologies for migration towards electronic work order systems and performance tracking. Laptop units for the forestry section will be the first priority working with IT/IS on the GBA Master Series, Park Module.

Position Changes: 1 – Irrigation Technician - 623 pay range
 1 - Gardening Supervisor II – 621 pay range
 1 – Gardening Supervisor I – 619 pay range
 2 – Mechanical Equipment Operator 50% - Seasonal

	<u>Budget</u>	<u>Detail</u>
	<u>Description</u>	
450 2	¾ Ton Crew, 4 door, Pick-up w/ side box bed	\$30,000
461 0	72” Front Deck Mowers @ \$13,000 each – 3 units	\$39,000
461 0	Equipment Trailer @ \$6,000 each – 2 units	\$12,000
461 0	48” Hydro Walk-behind mower	\$5,000
461 1	Compact Utility Loader w/ trencher, bore unit, back-hoe, loader bucket and trailer	\$30,000
461 1	Skid-steer Loader w/ bucket, forks, broom, grapple, power pulverizer and trailer	\$45,000
	TOTAL COSTS:	\$161,000

	<u>Budget</u>	<u>Detail</u>
	<u>Description</u>	
100 0	Irrigation Technician	\$43,569
100 0	Gardening Supervisor II	\$40,355
100 0	Gardening Supervisor I	\$37,491
250 8	Mechanical Equipment Operators (MEO’s) – 50% - 2 seasonals @ \$8,025 each	\$16,050
270 0	Fleet Rental –9 months for all units purchased in 2004	\$24,780
380 7	Grounds supplies – chemicals, seed, tools	\$1,755
	TOTAL COSTS:	\$164,000

Agenda Item No. 49

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1242

TO: Mayor and City Council Members

SUBJECT: 13th Street North Improvement from 135th Street West to Azure (District V)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the project.

Background: The 2004-2013 Capital Improvement Program adopted by the City Council includes a project to improve 13th Street North from 135th Street West to Azure. District V Advisory Board sponsored an October 4, 2004, neighborhood hearing on the project. The Board voted 8-0 to recommend approval of the project. The Sedgwick County Commission has agreed to participate in the project funding.

Analysis: The proposal is to build a four-lane roadway with a landscaped median. Left turn lanes will be provided at intersecting side streets. A storm water sewer will be constructed to improve drainage. The available right-of-way will be landscaped. Construction is planned for 2007.

Financial Considerations: The estimated project cost is \$2,100,000 with \$700,000 paid by the City, \$300,000 by Sedgwick County and \$1,100,000 by Federal Grants administered by the Kansas Department of Transportation. The Funding source for the City share is General Obligation Bonds. A City/County agreement has been prepared that sets forth the basis of the County's payment.

Legal Considerations: The Law Department has approved the authorizing Ordinance and City/County agreement as legal form.

Recommendation/Action: It is recommended that the City Council approve the project, approve the City/County agreement, place the Ordinance on First Reading and authorize the signing of State/Federal agreements as required.

Agenda Item No. 50

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1243

TO: Mayor and City Council Members

SUBJECT: 29th Street North Improvement, from Tyler to Ridge (District V)

INITIATED BY: Public Works

AGENDA: New Business

Recommendations: Approve the project.

Background: The 2004-2013 Capital Improvement Program adopted by the City Council includes a project to improve 29th Street North, from Tyler to Ridge. District V Advisory Board sponsored a December 1, 2003, neighborhood hearing on the project. The board voted 5-1 to recommend approval of the project but had concerns about the impact of deceleration lanes on adjacent neighborhoods. City Engineering staff and design consultant representatives subsequently met with adjoining neighborhood associations to resolve those concerns.

Analysis: The project will reconstruct 29th Street North to provide four through lanes and a landscaped median. Left turn lanes will be provided at the major entrances into adjoining residential neighborhoods. A storm water sewer system will be constructed to eliminate the ditches along the roadway. The intersection of 29th at Ridge will be signalized. The available right-of-way will be landscaped. Construction is planned for 2005/2006.

Financial Considerations: The estimated project cost is \$3,000,000 with \$987,000 paid by the City and \$2,013,000 by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds (GO). The project is included in the approved 2004-2013 CIP for 2005 (\$785,000 GO, \$1,390,000 Federal). Funding for the increased City cost is available from lower than

expected costs on the 29th Street improvement, Maize to Tyler and the 13th Street bridge project at Cowskin Creek.

Legal Considerations: The Law Department has approved the authorizing Ordinance as to legal form.

Recommendation/Actions: It is recommended that the City Council approve the project, place the Ordinance on First Reading, and authorize the signing of State/Federal agreements as required.

Agenda Item No. 51

City of Wichita
City Council Meeting

December 14, 2004

Agenda Report No. 04-1244

TO: Mayor and City Council Members

SUBJECT: Airport Teamster Local 795 Memorandum of Agreement

INITIATED BY: Personnel Division

AGENDA: New Business

Recommendation: Approve the proposed Memorandum of Agreement for Airport Teamsters Local 795.

Background: The City has reached a three-year agreement with Airport Teamster Local 795. The agreement will be in effect for the period of December 18, 2004 through December 14, 2007.

The current agreement with Airport Teamster Local 795 expires on December 17, 2004.

Analysis: The three-year agreement calls for wage increases of three percent for each year of the agreement, increases in longevity pay, increase in EMT pay, expanded substance abuse testing, formation of pay-for-performance committee, and other minor language changes agreed to by the parties.

The City has agreed to the following key Tentative Agreement items with the Airport Teamster Local 795:

- § A 3% across the board increase effective December 18, 2004.
- § A 3% across the board increase effective December 17, 2005.
- § A 3% across the board increase effective December 16, 2006.
- § Increased Longevity pay:
 - Ø Current Longevity pay – Employees who have completed 11 years of service shall receive \$2.00 per month times the number of years of accumulated service.
 - Ø New Longevity pay provision
 - o Employees who have completed 6 years of service shall receive \$2.00 per month times the number of years of accumulative service.
 - o After 11 years of service employees shall receive \$4.00 per month times the number of years of accumulative service.
 - o Effective December 17, 2005 employees who have completed 11 years of service shall receive \$5.00 per month times the number of years of accumulative service.
- § A performance pay committee will be formed to develop a performance-based pay system.
- § Beginning July 1, 2005, all employees shall be subject to random drug and alcohol testing. Both parties agree to meet and confer in good faith to develop an acceptable policy.
- § EMT pay increased from \$32.00 to \$35.00 biweekly, for an annual increase of \$780.00.
- § Incremental increase of special duty overtime pay over a three-year span. Three percent in 2005, four percent in 2006, and five percent in 2007. Special duty pay is reimbursed to the City from federal funding.

Financial Considerations: The total cost associated with contract negotiations and salary/wage adjustments will be financed with budgetary and reserve funds contained in the 2005 approved budget. The City Manager will work with the City Council to provide funding options for the revised 2005 and 2006 budgets.

Legal Considerations: The Law Department has reviewed the Agreement and approved as to form.

Recommendation/Actions: It is recommended that the City Council approve the Agreement and authorize the Mayor to sign.

Agenda Item No. 52

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1245

TO: Mayor and City Council

SUBJECT: Water and Sewer Rate Adjustments

INITIATED BY: Water and Sewer Department

AGENDA: New Business

Recommendation: Approve Water and Sewer rate adjustments for 2005.

Background: Rates of both Utilities are almost exclusively driven by capital needs associated with major investments to assure that Utilities are able to keep pace with growth in the metropolitan area and to replace aging infrastructure. The funding of the aquifer recharge project and additions to sewage treatment capacities are primary examples.

Through careful planning, the Utility has been successful in the avoidance of “rate shock” by maintaining rate adjustments that correspond directly to the capital needs of the Utility. In addition, the careful planning of bond sales and maintenance of expenditures has allowed the Utility to adjust original projections.

Analysis: The Adopted 2005 Budget provided for rate adjustments in the amount of 4 percent for Water and 3 percent for Sewer. The most recent analyses of rate requirements in both Utilities have led to a recommendation that no increase be adopted for the Water Utility, but that a 5 percent rate increase be adopted for the Sewer Utility. The impact to the consumer of the 5 percent increase in the Sewer Utility will be less than the impact of a combined 7 percent increase for both Utilities as was originally projected.

The Water and Sewer Utilities have initiated, or will initiate, several major capital improvement projects. In addition to the above projects, many capital expenditures are incurred in order to address the replacement and reconstruction needs of an aging Utility infrastructure. These total approximately \$5 million annually in Water and \$4-to-\$5 million annually in Sewer. This extensive and necessary capital project list for the Sewer Utility requires a rate increase for 2005.

In the case of the Water Utility, the recurring taste and odor issues associated with surface water conditions at Cheney prompted the need to aggressively pursue a solution to this problem. In 2004, City Council approved a 7 percent increase in Water Utility rates, of which 4 percent was attributable to efforts to alleviate the taste and odor problem. Operational expenses associated with feeding powder activated carbon (PAC) were less than anticipated. In addition, the feeding of PAC and the upcoming construction of ozonation facilities eliminated the need for capital expenses of \$2.5

million associated with basin cleaning facilities. Overall, the assessment of needs in the Water Utility have led to a recommendation for no rate increase for 2005.

The Sewer Utility has had more severe rate pressures for a variety of reasons. Capital expenditures for the Cowskin Creek Water Reclamation Facility (Northwest) and needed improvements to Four Mile Creek have been substantial. Further, there is a time lag from the time of the construction of facilities and the realization of revenue potential from their construction and expansion. The pending construction

of the Mid-Continent facility is another case in point. The downturn of the local economy, particularly as related to manufacturing, had a disproportionate impact on the Sewer Utility, since a higher proportion of Sewer revenues come from commercial and industrial accounts.

In the 1980s, bond covenants for both the Water and Sewer Utilities were modified to allow for a "cross collateralization" of the two Utilities, in essence creating a combined Water and Sewer Utility. Traditionally, the Water and Sewer Utilities have been accounted for as separate Utilities; however, from a strictly legal standpoint, the only requirement is that the combined Utility maintains the required debt service coverage ratio (120 percent).

The relative financial strength of the Water Utility versus the Sewer Utility currently allows the application of these cross collateralization provisions of the bond covenants and allows for temporary rate relief. Long-term, it is recommended that the 120 percent debt service coverage provisions be maintained in each Utility. A 5 percent rate increase in the Sewer Utility will assure that the 120 percent combined coverage ratio is maintained in the short-term. The average residential customer will see a 5 percent increase in Sewer rates resulting in an additional billing of fifty cents (\$.50) per month.

The attached ordinances, under the directive of previous City Council actions, also increase the outside City rate differential to fifty-nine percent (59 percent) in this fourth year of a phased program to increase the total rate differential to sixty percent (60 percent) over a five-year period.

Financial Considerations: A 5 percent rate increase is proposed for the Sewer Utility in 2005. No increase is proposed in Water Utility rates. This will fully fund the operating and capital program for the Water and Sewer Utilities in 2005. The Finance Department concurs with this recommendation.

Legal Considerations: The Department of Law has approved the ordinances as to form. City Council approval is required to implement rate adjustments.

Recommendation/Action: It is recommended that the City Council: 1) approve the recommended rate adjustments for the Water and Sewer Utilities; 2) place the Ordinances on first reading; and 3) authorize the necessary signatures.

Agenda Item No. 53

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1246

TO: Mayor and City Council Members

SUBJECT: Kingsbury Park (District VI)

INITIATED BY: Department of Park and Recreation

AGENDA: New Business

Recommendation: Approve the Master Plan.

Background: On October 19, 2004, the City Council approved a lease agreement with Quik Sand, Inc. Under terms of the lease agreement, Quick Sand will mine aggregate from the Kingsbury Tract and thereby create water features for a park that will be developed on the site. As a part of the lease approval, the Council directed that the Master Plan be returned to them for approval and that prior to that time, the plan should be presented to the Park Board and to District Advisory Board VI for their comments. On November 8, 2004, the plan was presented to the Park Board and was approved. On December 8, a revised plan indicating alternate sites for a future sanitary sewer plant facility was reviewed by the DAB VI Board. On December 13, the updated and revised plan was reviewed by the Park Board.

Analysis: The attached Master Plan has been developed by the architectural firm of Wilson Darnell Mann, with input from and review by the staff of the Park and Recreation Department. The Master Plan fulfills the program requirements of the future park set forth by the Park and Recreation Department.

Although the current 2005 CIP does not provide for design services in this Plan, the City needs to move quickly in preparation for a more complete set of plans to ensure proper shoreline and road alignments and other future infrastructure improvements, such as bike tunnels and bridge designs. Furthermore, basic configurations and lake profiles should be properly designed and planned for construction purposes. Provisions for additional ongoing design services can be reimbursed with revenues from the mining agreement. The design documents will also provide a framework for cost estimation and projections of future facilities within Kingsbury Park.

Financial Considerations: The financial aspects of this project are contained in the Lease Agreement approved by the City Council on October 19, 2004. Quick Sand, Inc paid the cost of developing the Master Plan.

Legal Considerations: The Lease Agreement required Quick Sand to receive City Council approval of a Master Plan prior to commencement of mining operations. This Plan is submitted to fulfill this requirement.

Recommendation/Action: Approve the Master Plan.

Agenda Item No.54

City of Wichita
City Council Meeting
Agenda Report No. 04-1247

December 14, 2004

TO: Mayor and City Council

SUBJECT: Indoor Tennis Center (District VI)

INITIATED BY: Park and Recreation Department

AGENDA: New Business

Recommendation: Reject both proposals. Retain CIP funding within current line item until new CIP plan can be formulated.

Background: The current CIP program includes \$2.5 million to partially fund the construction of an indoor tennis facility at the Ralph Wulz Riverside Tennis Center. In May of this year, a request for proposals was issued seeking a partner to construct and manage the tennis center. Two proposals were submitted.

The two respondents made presentations to the City of Wichita selection committee, the City of Wichita City Council, and the Board of Park Commissioners. Staff was also directed to have both respondents present at the District Advisory Boards. After much discussion, the following main concerns and questions were:

- City partnership with a non-profit vs. a for-profit.
- Is there a need for this facility?
- Is this facility proper use of City parkland?
- Is additional research and citizen input needed to make a more informed decision?

Analysis: Staff suggests the development of a comprehensive plan that will ensure that the proper research will be conducted to evaluate existing indoor tennis opportunities to determine if additional courts are needed. Additionally, the plan will address the non-profit and for-profit management issues of the facility.

Staff suggests the hiring of a consultant to develop the comprehensive plan.

Financial Considerations: The \$2.5 million will remain identified in the current CIP under Ralph Wulz Riverside Tennis Center.

Legal Considerations: The Law Department has approved this agenda item as to form.

Recommendations/Actions: It is recommended that the City Council reject both proposals and retain all funding under the Ralph Wulz Riverside Tennis Center until a new CIP plan can be formulated.

Agenda Item No. 55.

**City of Wichita
City Council Meeting
December 14, 2004**

Agenda Report No. 04-1248

TO: Mayor and City Council

SUBJECT: Amendments to Salary and Position Classification Ordinance

INITIATED BY: Personnel Office

AGENDA: New Business

Recommendation: Approve the amendments to the ordinance

Background: Agreements have been reached for 2004, 2005 and 2006 with the Fraternal Order of Police, Lodge #5; the International Association of Fire Fighters, Local #135; and the Service Employees International Union, Local #513. The wage rates and other economic terms and conditions of employment already agreed-upon and approved by the City Council are incorporated into this amendment. Beginning on page 12, Section 10 (Pay Rates) shows in bold the changes from these negotiations. These rates and changes go into effect with the pay period beginning December 18, 2004.

The agreement negotiated with the Teamsters Local #795 (Airport) is on the Council Agenda today. The rates in this agreement are also reflected in this amendment.

Also incorporated are the recommendations regarding pay rates and other items for nonexempt employees who are not represented by a bargaining unit, and exempt and management employees. The exempt and management groups have not received a General Pay Adjustment (GPA) for the last two years.

Throughout the year the Personnel Division is requested to review various classifications to determine if they are meeting the needs of the City and departments, and are appropriately classified. Maintaining internal equity in the classification system is also a major consideration and the reason for some reclassifications. There are also some job description revisions that result in minor ordinance changes, but that are necessary to ensure that job descriptions are accurate. For this ordinance there are also many other title changes recommended to be more consistent in how job levels are titled and to eliminate the “director” title for any but department directors. This effort inspired a number of other “clean-up” title revisions, such as deleting any that are no longer in use.

Analysis:

Classification and title changes: The proposed amendments to job descriptions, titles and reclassifications are itemized below.

Titles deleted:

- Assistant City Engineer – not in use
- Community Relations Liaison – not in use
- Computer Machine Operator I and II – not in use
- Director of Airport Administration – not in use
- Fleet and Buildings Director – not in use
- Information Systems Coordinator (A) & (B) – consolidated into Information Systems Coordinator
- Judge Pro-tempore – covered in separate ordinance provision
- Marketing Coordinator – not in use
- Neighborhood and Community Services Director – not in use
- Neighborhood Services Director – not in use
- Parking Control Checker – not in use
- Planning and Administration Director – not in use
- Planning and Development Engineer – not in use
- Recreation Director – not in use
- Watson Park Assistant Manager – not in use

New position titles – These result from creating new positions in the budget, classification studies, job description revisions, deleting unused titles and/or revising titles.

<u>Proposed Title</u>	<u>Current Title</u>	<u>Comment</u>
Advance Plans Manager division	Land Use Supervisor	Match org. chart and reflect director level
Airport Engineering & Planning Manager	Director of Airport Engineering & Planning	Change from Director

Airport Public Safety Chief	Chief, Airport Public Safety	Revise title
Air Service Development Coordinator	Air Service Development Director	Change from Director
Arts & Cultural Services Manager	Arts & Cultural Services Director	Change from Director
Assistant Golf Professional new title	Recreation Supervisor I	Reclassification to appropriate
Associate Human Resources Specialist	Associate Personnel Technician	Revise for change to Human
Bacteriologist	Bacteriologist I & II	Delete I & II titles
Botanica Manager	Botanica Director	Change from Director
Building Equipment Supervisor	Equipment Supervisor Buildings	Revise title
Building Services Manager	Building Services Director	Change from Director
Career Development Manager	Career Development Director	Change from Director
Century II Manager	Century II Director	Change from Director
Chief Probation Officer title	Municipal Court Supervisor	Revise to more common court
Counselor	Counselor I & II	Delete I & II titles
Current Plans Manager director level	Current Plans Supervisor	Revise to reflect division
Deputy Airport Public Safety Chief	Deputy Chief, Airport Public Safety	Revise title
Deputy City Clerk	Administrative Assistant	Reclassification to new title
Director of Human Resources Resources	Personnel Director	Revise for change to Human
Economic Development revise to Administrator	Financial Projects Director	Change from Director, and
Environmental Services director level Manager	Environmental Services Supervisor	better describe function Revise to reflect division
Environmental Specialist one title		Reclassification of more than position to appropriate new
Fleet Maintenance Services Manager	Fleet Maintenance Services Director	Change from Director
Geologist new title	Associate Planner	Reclassification to appropriate
Golf Course Food & Beverage Manager new title	Recreation Supervisor I	Reclassification to appropriate
Golf Professional I new title	Recreation Supervisor II	Reclassification to appropriate

Proposed Title

Current Title

Comment

Golf Professional II	Golf Professional	Reclassification to appropriate
new title Government Relations	Officer Government Relations	Director Change from Director
Historic Museum Manager	Historic Museum Director	Change from Director
Human Resources Specialist	Personnel Technician	Revise for change to Human
Resources		
Laboratory Administrator	Laboratory Director	Change from Director
Library Services Administrator	Library Services Coordinator	Revise to better reflect level of
positions		
Marketing Services Coordinator	Marketing Services Director	Change from Director
Municipal Court Clerk	Municipal Court Supervisor	Revise to more common court
title		
Museum Operations Supervisor	Security Officer	Reclassification from
nonexempt range		
expanded		623 to exempt range 119 for
		supervisory duties
Natural Resources Coordinator	Resources Director	Change from Director, and to
better		
		describe function
Property Management	Property Management Director	Change from Director
Administrator		
Senior Storekeeper	Storekeeper (Senior)	Revise inexplicable title
Sewer Maintenance	Superintendent of Sewer	Revise to be consistent with
other Water		
Superintendent	Maintenance	& Sewer division directors
Technical Services Coordinator	Technical Director	Change from Director
Transportation Planning	Transportation Supervisor	Revise to reflect division
director level		
Manager		
Utility Customer Service	Manager, Water Customer	Revise to more up-to-date title
Manager	Service	
Utility Services Coordinator		New position
Water Quality Program	Environmental Services	Revise to better describe
function		
Supervisor	Technician	

Reclassifications – Management has approved these actions but they are included in this amendment because they involve changing existing titles to different pay ranges. Reclassifications are based on the duties of the positions having changed or expanded over time or because of specific reorganizations. It is important that positions be classified consistent with the appropriate level for the duties performed.

- Air Quality Program Supervisor – upgrade from exempt range 116 to 114
- Chief Information Officer – upgrade from management range 005 to 004 – new department director
- Environmental Quality Specialist – upgrade from exempt range 118 to 117
- Public Health Sanitarian I – upgrade from nonexempt range 623 to 625
- Public Health Sanitarian II – upgrade from exempt range 117 to 116
- Public Information Officer – upgrade from exempt range 116 to 113, and change title
- Traffic Maintenance Supervisor – upgrade from exempt range 117 to 115

Pay raise recommendations for nonexempt, non-represented employees: It is recommended that a

3% General Pay Adjustment (GPA) be granted for 2005 and 2006 to match that agreed upon for the SEIU. It has long been the practice to match these groups because many are the same job titles doing similar work. It would be unreasonable to have, for example, a Secretary in one department who is represented by SEIU being paid at a different level than a Secretary in another department who is not represented.

An unusual situation exists regarding Police Lieutenants (not represented). They received a 2% GPA for 2004. Since then, 3% GPAs have been approved for represented police personnel, retroactive for 2004. This 1% difference aggravates the already existing pay compression between Lieutenants and Sergeants, plus past practice has been to provide Lieutenants with the same raise as granted to represented personnel. Therefore, a 1% increase is recommended for Police Lieutenants, retroactive for 2004, to address salary compression issues.

Pay raise recommendations for Management and Exempt employees: It is recommended that a 3% GPA be granted. It is also recommended that the maximums of these ranges be increased by 5.5%, with the minimums staying the same. Allowing Education Pay for Police Captains is recommended to recognize and compensate them for their education the same as nonexempt police personnel. This revises the last sentence in Section 10, Pay Rates, p. 13 (7): "This provision will not apply to positions in the Management Pay Plan."

Longevity Pay: Extending the same Longevity Pay package in the SEIU agreement to all non-represented positions is also recommended. This is shown in Section 10, Pay Rates, p. 14, (14).

Financial Considerations: The pay rates reflect negotiated 3% raises for represented employees, plus other negotiated salary items. Council has previously approved these measures.

The recommended raises and other items for nonexempt, non-represented employees, and Management and Exempt employees, have an estimated cost to the General Fund of \$609,990 in 2005 and \$1,139,610 for 2006, for a total of \$1,749,600 for both years. Staff will work with the City Manager and City Council to provide funding options for the Revised 2005 and 2006 budgets.

The title and job description amendments are either no-cost corrections and changes, or are included in the Revised 2004 or Adopted 2005 budgets.

Legal Considerations: The Department of Law has reviewed the amended ordinance and approved as to form.

Recommendations/Actions: It is recommended that the City Council approve the amendments to the Salary and Position Classification Ordinance, including the recommended economic enhancements.

Agenda Item No. 56

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1249

TO: Mayor and City Council

SUBJECT: DR2004-14 Urban Fringe Development Standards for
Wichita and Sedgwick County (All Districts)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

Background: Many questions have been raised in recent years over what standards to apply to development occurring within Sedgwick County, with particular interest being shown to those growth areas within and adjacent to Wichita and other Sedgwick County cities. As a result, Wichita and Sedgwick County officials entered into dialogue with the Wichita Area Builders Association to reach agreement on guidelines pertaining to water and sewer systems, street paving and drainage, and annexation. The attached paper outlines the recommendations that came out of that dialogue.

Analysis: As the standards are presented in the attachment, actions are identified that are needed to implement them. Toward that end, a repeated recommendation will be that, as appropriate, Wichita and Sedgwick County adopt the standards as part of their Unified Subdivision Regulations. Other actions that may need to be taken by Wichita and Sedgwick County are also identified.

Financial Considerations: Recommended policies under the heading of Water Supply and Service may require Wichita to review and possibly modify some current water financing practices.

Legal Considerations: Ordinances to amend the Unified Subdivision Regulations will need to be drafted to implement the recommended policies. The ordinances will be presented to the City Council for consideration after public notice, hearing, and recommendation of the Planning Commission.

Recommendation/Actions: Endorse the standards as presented and direct staff to take actions necessary to implement them.

Agenda Item No. 57

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1250

TO: Mayor and City Council

SUBJECT: ZON2003-00066 – Zone change from “SF-5” Single-family Residential to “LC” Limited Commercial with a Protective Overlay. Generally located east of Greenwich Road, on the south side of Central Avenue, on the southwest corner of Central Avenue and Ellson Street. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approve, subject to provisions of Protective Overlay #136, but with modifications to provision #7 (10-1)

DAB Recommendations: Approve subject to provisions of Protective Overlay #136, but with modifications to the MAPC’s modification to provision #7 (unanimously)

MAPD Staff Recommendations: Approve, subject to provisions of Protective Overlay #136.

Background: The applicant requests a zone change from “SF-5” Single-Family Residential to “LC” Limited Commercial with a Protective Overlay (PO) on the approximately 4.72 acres of the New Life Christian Church Addition. The applicant has no specific use proposed for the site. The site is currently developed as a church on the west side of the site. The eastern portion of the site is not developed. The site is located on the southwest corner of the Central Avenue – Ellson Street intersection, approximately 700-feet east of the Greenwich Road – Central Avenue intersection.

Analysis: There is “LC” zoning on three of the four corners of the Greenwich Road – Central Avenue intersection. The exception is the southwest corner, which is zoned “LI” Limited Industrial. This southwest corner is part of an area largely zoned “LI” Limited

Industrial, extending south to Kellogg Avenue/US 54, north to railroad tracks located ½ mile north of 13th Street North and from Greenwich Road, west to Webb Road. The Raytheon/Beech Aircraft Company complex is the dominant development in this industrial area and in fact is one of the largest manufacturing/industrial complexes in Wichita/Sedgwick County

The northwest corner of the intersection is developed as a bank with a drive through, zoned “LC”, built in 1982. West of the bank is a marine dealership, zoned “GC” General Commercial, with a Conditional Use overlay, CU-300, built in 1987. North of the bank is an electrical substation, which is mostly zoned “LC”.

The “LC” zoned northeast corner of the intersection is the partially developed 15.75-acre Community Unit Plan (CUP) Development Plan-232. This CUP is a mix of commercial and duplex uses. A Saturn car sales lot, built in 2000, occupies the CUP’s corner by the intersection. East of the car sales site, still in the CUP along Central, is a retail strip, built in 2001. The retail strip contains a sit down restaurant, insurance office, hair salon, chiropractor’s office, a whirlpool – cabinet sales shop and a vacant space. The rest of the eastern portion of the CUP along Central is not developed and sits north across Central from the subject site, ending approximately 1,110-feet from the intersection. The duplex use of the CUP is north of the previously mentioned undeveloped portion. All 11 lots of the duplex use were built in 1999 and are zoned “LC”. A large church is located north of this CUP.

The LC” zoned southeast corner of the intersection, is the largely undeveloped 7.76-acre CUP DP-229. Its only development is a convenience store, built in 1999, occupying the CUP’s corner by the intersection. The rest of the CUP, with frontage on Greenwich is not developed. East of the convenience store is a credit card gas station, built in 1999. The gas station is zoned “LC”. The “LC” zoning extends east of this gas station and across Dowell Street to a vacant lot, which abuts the west side of the subject site.

The subject site’s south side contains a large platted floodway. The property south of the floodway is zoned “TF-3” and developed with duplexes, built in 2001. “SF-5” zoning and urban scale single-family residential development, built in the late 1990s is located south of this “TF-3” zoning and also abuts the southeast portion of the subject site. “SF-5” zoning with large tract single-family residences and urban scale single-family residential development are northeast and east, across Ellson Street, from the subject site. Large tract single-family residential developments are on both sides of Central, east of the subject site, and were generally built before 1940. The urban scale single-family residential development occurred generally in the late 1970s and early 1980s. Further east along Central, on its south side, located at the mid-mile is a “GO” district with Protective Overlays (POs #33 & #51). This site has a motel and office.

The following is an outline of the case’s history:

(a) ZON2003-66 was first considered at the MAPC’s February 19, 2004 meeting. The MAPC recommended (11-0) that the staff and the applicant attempt to resolve some

issues with the request and deferred action, at the applicant's request, on the case for 30 days. One person protested the zone change.

(b) ZON2004-66 was considered at the District Advisory Board II's (DAB) March 1, 2004 meeting. DAB II deferred a recommendation on the case until the MAPC made a recommendation.

(c) DAB II reconsidered this case at their April 5, 2004 meeting and again deferred action on the zoning change request, stipulating that the request would be reconsidered by the DAB after the MAPC considered the case at their April 8, 2004 meeting. One person at the DAB meeting requested more information in regards to how improvements on Ellson Street would affect him.

(d) The MAPC reconsidered this case at their April 8, 2004 meeting and recommended approval (10-1) of the zoning change and the protective overlay, with changes to provision #7. The changes to provision #7 were; no access onto Ellson and eliminate the guarantee for the development of Ellson Street to City Standards. One person spoke in opposition to the requested zoning change at the meeting, if it required him to participate in paying for any improvements to Ellson Street that would be the result of the zone change.

(e) Following the MAPC's recommendation, the applicant requested that neither the DAB or the Wichita City Council (WCC) consider the case until they had further consultation with their agent.

(f) DAB II reconsidered this case at their November 15, 2004 meeting and recommended approval of the requested "LC" zoning with PO #136. The DAB modified provision #7 of PO #136. The change to provision #7 was to allow one point of access onto Ellson and to have the applicant provide a guarantee for paving to the half of the Ellson Street right-of-way that abuts the subject site. The modification also allowed the church to continue to use both the existing drives onto Central Avenue, with full movement, until the site was redeveloped without a church. At that time access on the east existing drive would become right in-right out only.

In summary, the MAPC recommended the zoning change to "LC" with PO #136 and modified provision #7 to read that no access was allowed onto Ellson Street and that no guarantee for the paving of Ellson Street was to be provided by the applicant. DAB II subsequently recommended the zone change to "LC" with PO #136, but they modified provision #7 to allow shared access from all developments on the site onto one drive onto Ellson Street and that the applicant provide a guarantee for the paving of the half street of Ellson right-of-way that abuts the site's east side. DAB II further modified provision #7 to allow the church to continue to use both the existing drives onto Central Avenue, with full movement, until the site was redeveloped without a church. At that time access on the existing east drive would become right in-right out.

It will require two-thirds of the City Council members to vote to override the MAPC's recommendation.

Staff has received one e-mail letter of opposition objecting to the requested zoning change. The protester did not turn in an official protest; it lacked the needed signatures. The unofficial protest represents 02.24% of the net protest area.

Financial Considerations: None

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council

1. Concur with the findings of the MAPC and approve the zone change, subject to the additional recommended provisions of Protective Overlay District #136; place the ordinance establishing the zoning change on first reading; or
2. Return the application to the MAPC for reconsideration

Agenda Item #58

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1251

TO: Mayor and City Council Members

SUBJECT: ZON2002-00069 – Extension of time to complete the platting requirement for a zone change from “SF-5” Single-Family Residential to “LI” Limited Industrial. Generally located north of 31st Street South and east of the Kansas Turnpike (I-35). (District III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve one-year extension of time to complete platting.

Background: On February 4, 2003, the City Council approved a zone change request from “SF-5” Single-Family Residential to “LI” Limited Industrial for approximately three acres generally located north of 31st Street South and east of the Kansas Turnpike (I-35). Approval of the request was subject to the condition of platting the property within one year. An application to plat the property was approved by the MAPC on August 7, 2003. A six-month extension of time to complete platting subsequently was granted by staff to allow additional time to confine a blanket pipeline easement on the property. The extended platting deadline was August 4, 2004; however, the applicant indicates in the attached letter from their agent that additional time is still needed to confine the pipeline easement. Therefore, the applicant has requested an additional one-year extension of time to complete platting. Such an extension of time to complete platting requires City Council approval.

Analysis: Staff recommends that an extension of time to complete platting requirements be granted to August 4, 2005. The City Council may deny the request for an extension of time to complete platting. Denying the extension would declare the zone change null and void and would require reapplication and rehearing if the property owner still desired a zone change.

Financial Considerations: None.

Legal Considerations: No legal documents are required to enact the granting of the platting extension. The granting of a platting extension is indicated via letter to the applicant noting the extended platting deadline as granted by the City Council.

Recommendations/Actions: Approve extension of time to complete platting to August 4, 2005.

Agenda Item No. 59

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1252

TO: Mayor and City Council

SUBJECT: ZON2004-00051 – Zone change from “LI” Limited Industrial to “SF-5” Single-family Residential. Generally located northwest of Webb Road and 43rd Street North. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve. (Vote 9-0)

MAPD Staff Recommendations: Approve.

DAB Recommendations: Not Applicable.

BACKGROUND: The applicant requests SF-5 zoning on a 1.67-acre site. The site is currently zoned LI, and platted into two lots. The applicant intends to develop five single-family residential lots on the site. The application area is west of North Webb Road, and north of East 43rd Street North. North of the application area are SF-5 zoned large lots; the lot immediately north of the application area remains under agricultural production. South of the application area are platted SF-5 lots, with several homes built on East 42nd Street North. East of the site, across Webb Road, is the LI zoned Jabara Airport, and RR zoned agricultural land. West of the application area are platted SF-5 zoned lots.

Analysis: MAPC heard this request on October 21st 2004, no members of the public spoke against the request, the MAPC voted 9-0 to approve.

Financial Considerations: None

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council

1. Concur with the findings of the MAPC and approve the first reading of the ordinance establishing the zone change; or
2. Return the application to MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the members of the governing body on the first hearing.)

Agenda Item No. 60

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1253

TO: Mayor and City Council

SUBJECT: ZON2004-00052 – Zone change from “TF-3” Two Family to “GO” General Office. Generally located at the southeast corner of St. Paul and Elm. (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve. (Vote 9-0)

MAPD Staff Recommendations: Approve.

DAB Recommendations: Six, approve. (8-0)

BACKGROUND: The applicant requests a zone change for the subject property from “TF-3” Two Family to “GO” General Office. The subject property is a 0.9 acre platted tract that is located at the southeast corner of St. Paul and Elm. The subject property is currently developed with two residential structures. The applicant has not indicated the proposed future use of the subject property, but has requested that the property be rezoned so that it is in the same zoning district as the applicant’s abutting properties to the east and south.

The character of the surrounding area is dominated by Riverside Hospital, with commercial uses located to the south along Central and residential uses located to the north and west. The property to the north is zoned “TF-3” Two Family and is developed with a duplex. The property to the east is zoned “GO” General Office and is developed with a hospital. The property to the south is zoned “GO” General Office and is undeveloped. The properties to the west are zoned “SF-5” Single Family and are developed with single family residences.

Analysis: There were no speakers in opposition to the request at the DAB meeting on October 20, 2004, or at the MAPC meeting on October 21, 2004. Both the DAB and MAPC voted unanimously to recommend approval of the zone change.

Financial Considerations: None.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change; place the ordinance establishing the zone change on first reading; or
2. Return the application to the MAPC for reconsideration

(An override of the Planning Commission's recommendation requires a two-third majority vote of the City Council on the first hearing.)

Agenda Item No. 61

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1254

TO: Mayor and City Council

SUBJECT: ZON2004-00053 – Zone change from “SF-5” Single-family Residential to “GC” General Commercial subject to Protective Overlay #92. Generally located south of Central, 1/2 block west of Tracy (4425 W. Central). (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to the provisions of Protective Overlay #92. (Vote 9-0)

MAPD Staff Recommendations: Approve, subject to provisions of Protective Overlay #92.

DAB Recommendations: Not Applicable.

BACKGROUND: The applicants operate an auto body repair shop on property zoned GC, General Commercial, subject to Protective Overlay 92, located at 4411 west Central Avenue (the southwest corner of Tracy and west Central). The application area (1/2 block west of Tracy, south of Central Avenue) is located just west of the applicants' existing auto body shop. The applicants are seeking to rezone the application area from SF-5 Single-family Residential to GC General Commercial to permit the expansion of their existing body shop. The site has been cleared, and the applicants have purchased the site. The site is platted as the west ¼ of Lots 1 and 3, Block 3, Parkwilde Addition.

Protective Overlay 92 contained the following development standards:

- A. Permitted uses are restricted to those uses permitted by-right in the “LC” Limited Commercial district plus “vehicle repair, general.”
- B. All parking storage and display areas shall be paved with concrete, asphalt or asphaltic concrete. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-ways.
- C. No off-site or portable signs are permitted.
- D. Exterior audio systems shall be prohibited.
- E. All vehicles that are not complete and visually intact or are stored more than 72 hours are to be screened from ground view from abutting/adjoining properties and from abutting streets. Screening shall be of a material approved by the Unified Zoning Code.
- F. Ten feet of right-of-way and complete access control along Central shall be dedicated.

The application area fronts Central Avenue; sides onto land zoned commercial and used commercial; and back up to residentially zoned land used for single-family residential purposes.

Analysis: The Metropolitan Area Planning Commission (MAPC) reviewed and approved, subject to Protective Overlay #92 detailed above, 9-0. No one spoke in opposition to the requested zone change. No protest petitions have been received.

Financial Considerations: None

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council

1. Concur with the findings of the MAPC and approve the zone change subject to the conditions contained in Protective Overlay #92; place the ordinance establishing the zone change on first reading; or
2. Return the application to MAPC for reconsideration.

(An override of the Planning Commission’s recommendation requires a two-thirds majority vote of all the members of the governing body on the first hearing.)

Agenda Item No. 62

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1255

TO: Mayor and City Council

SUBJECT: ZON2004-00054 – Zone change from “LI” Limited Industrial to “GC” General Commercial. Generally located at the northwest corner of East 1st Street and Ohio. (1116 E. 1st Street) (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve. (Vote 12-0)

MAPD Staff Recommendations: Approve.

DAB Recommendations: Not applicable.

BACKGROUND: The applicant is requesting to rezone a 0.35-acre site from “LI” Limited Industrial to “GC” General Commercial. This is a down zoning request in which the current zoning is less restrictive than the requested zoning. The application area is located on the northwest corner of East 1st Street and Ohio, and is developed with a church building, built in 1911.

The applicant plans to renovate the building for residential use. The “LI” zone does not permit residential uses, requiring this application for a zone change.

All properties surrounding the application area are zoned “LI”. Several properties within several blocks in all directions retain legal nonconforming use status for residences. Two blocks west of the application area lies the “OT-O” Old Town Overlay district, which permits residences in “LI” base zoning. Immediately north of the application area is a single-family residence. South of the application area, across 1st Street, are warehouse and retail uses. East and west of the application area are office uses.

The application area falls within the environs of the locally registered historic Keen Cutter Building. Therefore the Historic Preservation Board reviewed this zone change request; the board had no issues.

Analysis: MAPC heard this request on November 4, 2004, no members of the public spoke on this request, the MAPC approved by a vote of 12-0.

Financial Considerations: None

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council

1. Concur with the findings of the MAPC and approve the first reading of the ordinance establishing the zone change; or
2. Return the application to MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the members of the governing body on the first hearing.)

Agenda Item No. 63

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1256

TO: Mayor and City Council

SUBJECT: ZON2004-00055 – Zone change from “B” Multi-Family and “GC” General Commercial to “LI” Limited Industrial and from “B” Multi-Family to “GC” General Commercial. Generally located south of Kellogg and west of Water Street. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve. (Vote 12-0)

MAPD Staff Recommendations: Approve.

DAB Recommendations: Approve. (Vote 8-0)

BACKGROUND: The applicant requests a zone change for 1.41 acres that fronts Wichita Street from “B” Multi-Family and “GC” General Commercial to “LI” Limited Industrial. The applicant also requests a zone change for 3 acres that fronts Water Street from “B” Multi-Family to “GC” General Commercial. The subject property is platted and is located south of Kellogg and west of Water Street. The portion of the subject property proposed for “LI” zoning is currently developed with a parking lot. The portion of the subject property proposed for “GC” zoning is currently developed primarily with residential uses. The proposed use of the subject property is to expand the applicant’s existing business, which is located west of the subject property.

The character of the surrounding area is dominated by the Kellogg Freeway and the various commercial uses along its frontage. The properties to the north are zoned “LI” Limited Industrial and “CDB” Central Business District and are being redeveloped as the “WaterWalk.” The properties to the east are zoned “LC” Limited Commercial and “B” Multi-Family and are developed with a hotel and residential uses, respectively. The properties to the south are zoned “B” Multi-Family and are developed with residential uses. The properties to the west are zoned “LI” Limited Industrial and are developed with the applicant’s business, BG Products, Inc.

Analysis: There were no speakers in opposition to the request at the DAB meeting on November 1, 2004, or at the MAPC meeting on November 4, 2004. Both the DAB and MAPC voted unanimously to recommend approval of the zone change.

Financial Considerations: None.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change; place the ordinance establishing the zone change on first reading; or
2. Return the application to the MAPC for reconsideration

(An override of the Planning Commission's recommendation requires a two-third majority vote of the City Council on the first hearing.)

Agenda Item #64

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1257

TO: Mayor and City Council Members

SUBJECT: SUB 2002-97 -- Plat of His Helping Hands Addition, Located on the South Side of 37th Street North and West of Hydraulic. (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (11-0)

Background: This unplatted site, consisting of one lot on 18.5 acres, is located within Wichita's city limits and is zoned GI, General Industrial District.

Analysis: A financial guarantee has been provided for sewer, street and water improvements. In order to provide cross-lot access to the abutting property to the west, a Cross-lot Easement has been submitted.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Legal Considerations: The Cross-lot Easement will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the document and plat and authorize the necessary signatures.

Agenda Item No. 65

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1258

TO: Mayor and City Council Members

SUBJECT: Environmental Assessments for Redevelopment Areas along the 21st Street North Corridor (Districts I and VI)

INITIATED BY: Metropolitan Area Planning Department
Department of Environmental Health

AGENDA: Planning (Consent)

Recommendation: Approve the application for Kansas Department of Health and Environment (KDHE) funding.

Background: Environmental assessments are typically required as due diligence prior to not-for-profit or commercial property acquisition / land redevelopment. Phase I, and in some cases, Phase II environmental assessments will eventually be needed for the potential redevelopment areas that have been identified in the proposed 21st Street North Corridor Revitalization Plan (extending from Hillside Street on the east to Amidon Street on the west). The potential redevelopment areas contain a mix of public / not-for-profit and privately owned property. The Kansas Department of Health and Environment (KDHE) administers a Brownfield Targeted Assessment (BTA) program that would pay the cost of undertaking Phase I and Phase II environmental assessments for the potential redevelopment areas.

Analysis: The use of the KDHE BTA program would not only save the City and the private sector investigation costs, but would also allow the assessments to be done in a more efficient and timely manner. Completing the assessments soon than later will enable potential redevelopment areas to be more quickly redeveloped at such time as marketplace forces warrant. Application for KDHE funding can be completed by MAPD and Environmental Health staff, and requires only City Council approval to proceed.

Financial Considerations: There is no financial cost to the City. KDHE would conduct and fund the cost of the BTA (both Phase I and Phase II assessments). “In-kind” services (i.e. city support staff time) may be required on the part of the City.

Legal Considerations: The Department of Law will review the application to KDHE prior to submission.

Recommendations / Actions: It is recommended that the Council approve the application to KDHE for funding the Brownfield Targeted Assessment (BTA) program, and authorize staff to proceed with the project.

Agenda Item No. 66

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No.04-1259

TO: Mayor and City Council Members

SUBJECT: DR2004-15 City of Wichita Boundary Resolution

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Recommendation: Approve the boundary resolution.

Background: The City of Wichita is required by Kansas State law to annually prepare a description of the corporate boundaries. The law requires that the description shall define the boundaries after incorporating all changes made through annexation or exclusions of territory since December 16, 2003.

During the calendar year 2004, the City of Wichita approved a total of twenty-three (23) annexations, with none (0) of those being unilateral. One (1) de-annexation from the City occurred in 2004. This added a total of 773.91 acres (1.209 sq. mi.) to the City and subtracted 79.87 acres (.124 sq. mi.) from the City, resulting in Wichita corporate area of 155.027sq. mi., as of December 31, 2004.

Analysis: City Engineering staff has prepared a legal description of all territory annexed into the City of Wichita during 2004.

Legal Considerations: K.S.A. 12-517 requires that for any year in which any territory has been added or excluded from any city, the governing body of such city shall declare, by resolution, the entire boundary of the city. The Law Department has reviewed and approved the Resolution as to form.

Recommendations/Actions: Approve the City of Wichita boundary resolution.

Agenda Item No. 67

City of Wichita
City Council Meeting
December 14, 2004

Agenda Report No. 04-1260

TO: Wichita Airport Authority

SUBJECT: Air Service Consulting Services – The Boyd Group/ASRC, Inc.

INITIATED BY: Airport Department

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Agreement.

Background: On October 21, 2003, the Wichita Airport Authority authorized staff to advertise, select and enter into contract negotiations with various air service consultants to provide air service strategies and consulting services. On January 6, 2004, a selection committee reviewed proposals and conducted interviews to solicit firms to provide air service support functions at Mid-Continent Airport. The Boyd Group was one of the firms selected to do air service consulting.

Analysis: On February 3, 2004, the Wichita Airport Authority authorized an agreement with the Boyd Group to assess Mid-Continent Airport air service levels, identify air service shortfalls, and prioritize air service expansion opportunities. The budget allocated was \$34,225, plus expenses not to exceed 10% of professional services. These projects have been completed. Airport leadership now desires an on-call relationship with the Boyd Group to support opportunity development as needed.

Financial Considerations: Budget for on-call professional services not to exceed \$30,000 with scopes to be identified as appropriate. Project expenses for these services not to exceed 10% of the cost of professional services. The allocation is available in the Airport budget with an adjustment.

Legal Considerations: The Agreement has been approved as to form by the Department of Law.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the Agreement and the budget adjustment, and authorize the necessary signatures.